

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1646
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Jurisprudence
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 79th Legislature, Regular Session, 2005, enacted legislation that amended Section 3.007 (Property Interest in Certain Employee Benefits), Family Code, to provide definitions for separate and community property with defined benefit plans. However, this change created two problems. The first problem is that the redefining of the existing provision of the constitutional boundaries between separate and community property runs contrary to what is understood in Texas case law. The second problem is that the change inadvertently created a percentage of pension accounts that are neither separate nor community property.

C.S.H.B. 1646 provides that the historical application of separate and community law principles to defined benefit plans are restored, both in the formation and interpretation of qualified domestic relations orders and in the portions of divorce decrees relating to defined benefit plans.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3.007(d), Family Code, as follows:

(d) Provides that a spouse who is a participant in an employer-provided stock option plan or an employer-provided restricted stock plan has a separate property interest in the options or restricted stock granted to the spouse under the plan as follows:

(1) Provides that the spouse's separate property interest in the option or stock that was granted to the spouse before marriage but required continued employment during marriage before the grant could be exercised or the restriction removed, to equal a fraction in which the numerator equals the period from the date the option or stock was granted until the date of marriage and the period from the date of dissolution of the marriage until the date the grant could be exercised or the restriction removed if the option or stock required continued employment following the date of said dissolution, and the denominator is the period from the date the option or stock was granted until the date the grant could be exercised or the restriction removed.

(2) Provides that the spouse's separate property interest in the option or stock that was granted to the spouse during the marriage but required continued employment following the date of dissolution of, rather than after, the marriage before the grant could be exercised or the restriction removed is equal to a fraction in which the numerator is the period from the date of dissolution, rather than termination, of the marriage until the date the grant could be exercised or the restriction removed and the denominator is the period from the date the option or stock was granted until the date the grant could be exercised or the restriction removed.

SECTION 2. Repealer: Sections 3.007(a) (regarding a spouse's separate property interest in a defined benefit retirement plan), (b) (regarding process of determination of community property interest in a defined benefit plan), and (f) (regarding recalculation of the characterization of the

marital property interest in an option or restricted stock under certain circumstances), Family Code.

SECTION 3. Provides that the changes in law made by this Act applies to a suit for dissolution of a marriage pending before a trial court on or filed on or after the effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2007.