

By: Raymond

H.B. No. 1089

Substitute the following for H.B. No. 1089:

By: Madden

C.S.H.B. No. 1089

A BILL TO BE ENTITLED

AN ACT

relating to certain civil actions against persons who file complaints with governmental agencies or quasi-governmental entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 140 to read as follows:

CHAPTER 140. CIVIL ACTIONS AGAINST PERSONS FILING COMPLAINTS WITH GOVERNMENTAL AGENCIES OR QUASI-GOVERNMENTAL ENTITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 140.001. DEFINITIONS. In this chapter:

(1) "Claimant" means a person who files a civil action described by Section 140.002(a) against a complainant.

(2) "Complainant" means a person who makes a complaint or who communicates information relevant to a complaint.

(3) "Complaint" means a written or oral statement, report, or other communication made to or kept by a governmental agency or quasi-governmental entity that is or may be subject to formal action by the agency or entity.

(4) "Governmental agency" means:

(A) this state, another state of the United States, or the United States;

(B) any court, institution, agency, political subdivision, or organ of government established by the constitution

1 or laws of this state, of another state of the United States, or of
2 the United States, including a department, bureau, board,
3 commission, office, or council; or

4 (C) a law enforcement agency.

5 (5) "Quasi-governmental entity" means a person who,
6 under law or under a formal or informal request by, agreement with,
7 delegation of authority by, or rule adopted by a governmental
8 agency:

9 (A) receives or reviews complaints for the
10 agency; or

11 (B) performs a function of the agency.

12 Sec. 140.002. APPLICABILITY. (a) This chapter applies
13 only to a civil action filed against a complainant that:

14 (1) is filed by or on behalf of a person who may be
15 adversely affected by the filing of the complaint; and

16 (2) alleges that the contents of or the filing of the
17 complaint constitutes a basis for relief, including a claim
18 alleging that the contents of the complaint constitute libel or
19 slander.

20 (b) Notwithstanding Subsection (a), this chapter does not
21 apply to a civil action if:

22 (1) the complaint is confidential by other law and not
23 a public record available to a member of the public who is not
24 affected by the complaint and the complainant communicated the
25 contents of the complaint to a person other than to the governmental
26 agency or quasi-governmental entity that initially received or
27 reviewed the complaint; or

1 (2) the complainant is an employee or former employee
2 of the person who is the subject of the complaint.

3 (c) This chapter does not create or authorize a cause of
4 action against a governmental agency, a quasi-governmental entity,
5 or an officer, agent, or employee of a governmental agency or
6 quasi-governmental entity acting in the course and scope of the
7 person's duties or employment. Notwithstanding Chapter 104, the
8 state is not liable for indemnification of a person for damages
9 arising under this chapter.

10 [Sections 140.003-140.050 reserved for expansion]

11 SUBCHAPTER B. FILING OF ACTION

12 Sec. 140.051. TIME FOR FILING. A person may not file a
13 civil action asserting a cause of action to which this chapter
14 applies before the agency or entity with which the complaint is
15 filed takes final action on the complaint that is the basis of the
16 cause of action, including a statement to the claimant that the
17 agency or entity will not take action on the complaint.

18 Sec. 140.052. ABATEMENT OF ACTION. On the motion of a
19 complainant against whom a civil action asserting a cause of action
20 to which this chapter applies is filed, the court shall determine
21 whether the final action described by Section 140.051 has occurred.
22 If the court determines that the final action has not occurred, the
23 court shall abate the civil action until the claimant demonstrates
24 that the final action described by Section 140.051 has occurred.

25 Sec. 140.053. STATUTE OF LIMITATIONS; TOLLING. The statute
26 of limitations for filing a civil action asserting a cause of action
27 to which this chapter applies is tolled from the time the complaint

1 is filed until the final action described by Section 140.051
2 occurs.

3 SECTION 2. This Act applies only to a civil action asserting
4 a cause of action described by Section 140.002, Civil Practice and
5 Remedies Code, as added by this Act, filed on or after the effective
6 date of this Act. A civil action filed before the effective date of
7 this Act is governed by the law applicable to the action immediately
8 before the effective date of this Act, and that law is continued in
9 effect for that purpose.

10 SECTION 3. This Act takes effect September 1, 2007.