

By: Dutton

H.B. No. 1646

Substitute the following for H.B. No. 1646:

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C.S.H.B. No. 1646

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the marital property interest in certain employee
3 benefits and the statute of limitations applicable to certain
4 actions asserting claims under marital property agreements.

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

6 SECTION 1. Section 3.007(d), Family Code, is amended to
7 read as follows:

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

12 (1) if the option or stock was granted to the spouse
13 before marriage but required continued employment during marriage
14 before the grant could be exercised or the restriction removed, the
15 spouse's separate property interest is equal to the fraction of the
16 option or restricted stock in which:

17 (A) the numerator is the period from the date the
18 option or stock was granted until the date of marriage and, if the
19 option or stock also required continued employment following the
20 date of dissolution of the marriage before the grant could be
21 exercised or the restriction removed, the period from the date of
22 dissolution of the marriage until the date the grant could be
23 exercised or the restriction removed; and

24 (B) the denominator is the period from the date

1 the option or stock was granted until the date the grant could be
2 exercised or the restriction removed; and

3 (2) if the option or stock was granted to the spouse
4 during the marriage but required continued employment following the
5 date of dissolution of the [after] marriage before the grant could
6 be exercised or the restriction removed, the spouse's separate
7 property interest is equal to the fraction of the option or
8 restricted stock in which:

9 (A) the numerator is the period from the date of
10 dissolution [~~or termination~~] of the marriage until the date the
11 grant could be exercised or the restriction removed; and

12 (B) the denominator is the period from the date
13 the option or stock was granted until the date the grant could be
14 exercised or the restriction removed.

15 SECTION 2. Subchapter B, Chapter 4, Family Code, is amended
16 by adding Section 4.107 to read as follows:

17 Sec. 4.107. LIMITATION OF ACTIONS. A statute of
18 limitations applicable to an action asserting a claim for relief
19 under an agreement under this subchapter is tolled during the
20 marriage of the parties to the agreement. However, equitable
21 defenses limiting the time for enforcement, including laches and
22 estoppel, are available to either party.

23 SECTION 3. Subchapter C, Chapter 4, Family Code, is amended
24 by adding Section 4.207 to read as follows:

25 Sec. 4.207. LIMITATION OF ACTIONS. A statute of
26 limitations applicable to an action asserting a claim for relief
27 under an agreement under this subchapter is tolled during the

1 marriage of the parties to the agreement. However, equitable
2 defenses limiting the time for enforcement, including laches and
3 estoppel, are available to either party.

4 SECTION 4. Sections 3.007(a), (b), and (f), Family Code,
5 are repealed.

6 SECTION 5. The change in law made by this Act to Section
7 3.007, Family Code, applies to a suit for dissolution of a marriage
8 pending before a trial court on or filed on or after the effective
9 date of this Act.

10 SECTION 6. The changes in law made by this Act by the
11 addition of Sections 4.107 and 4.207, Family Code, apply to an
12 agreement under Subchapter B or C, Chapter 4, Family Code, without
13 regard to whether the agreement was made before, on, or after the
14 effective date of this Act.

15 SECTION 7. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2007.