

AN ACT

relating to the affidavit required to prove expenses in a civil action.

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

SECTION 1. Subsections (d), (e), and (f), Section 18.001, Civil Practice and Remedies Code, are amended to read as follows:

(d) The party offering the affidavit in evidence or the party's attorney must ~~[file the affidavit with the clerk of the court and]~~ serve a copy of the affidavit on each other party to the case at least 30 days before the day on which evidence is first presented at the trial of the case.

(e) A party intending to controvert a claim reflected by the affidavit must ~~[file a counteraffidavit with the clerk of the court and]~~ serve a copy of the counteraffidavit on each other party or the party's attorney of record:

(1) not later than:

(A) 30 days after the day the party ~~[he]~~ receives a copy of the affidavit; and

(B) at least 14 days before the day on which evidence is first presented at the trial of the case; or

(2) with leave of the court, at any time before the commencement of evidence at trial.

(f) The counteraffidavit must give reasonable notice of the basis on which the party serving ~~[filing]~~ it intends at trial to

1 controvert the claim reflected by the initial affidavit and must be
2 taken before a person authorized to administer oaths. The
3 counteraffidavit must be made by a person who is qualified, by
4 knowledge, skill, experience, training, education, or other
5 expertise, to testify in contravention of all or part of any of the
6 matters contained in the initial affidavit.

7 SECTION 2. The change in law made by this Act applies only
8 to a cause of action that is commenced on or after the effective
9 date of this Act. A cause of action commenced before the effective
10 date of this Act is governed by the law in effect immediately before
11 the change in law made by this Act, and that law is continued in
12 effect for that purpose.

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 763 passed the Senate on March 28, 2007, by the following vote: Yeas 30, Nays 0; May 21, 2007, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 22, 2007, House granted request of the Senate; May 25, 2007, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 763 passed the House, with amendment, on May 17, 2007, by the following vote: Yeas 143, Nays 0, two present not voting; May 22, 2007, House granted request of the Senate for appointment of Conference Committee; May 25, 2007, House adopted Conference Committee Report by the following vote: Yeas 139, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor