

A BILL TO BE ENTITLED

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.