

A BILL TO BE ENTITLED

AN ACT

relating to offers of settlement in certain civil actions.

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

SECTION 1. Subsection (c), Section 42.002, Civil Practice and Remedies Code, is amended to read as follows:

(c) This chapter does not apply until a party to an action [~~defendant~~] files a declaration that the settlement procedure allowed by the chapter is available in the action. The [~~If there is more than one defendant, the~~] settlement procedure allowed by this chapter is available only in relation to the party [~~defendant~~] that filed the declaration and to the parties that make or receive offers of settlement in relation to that party [~~defendant~~].

SECTION 2. Section 42.004, Civil Practice and Remedies Code, is amended by amending Subsection (b) and by adding Subsection (h) to read as follows:

(b) A judgment will be significantly less favorable to the rejecting party than is the settlement offer if:

(1) the rejecting party is a claimant and the award will be less than 80 percent of the rejected offer; or

(2) the rejecting party is a defendant and the verdict [~~award~~] will be more than 120 percent of the rejected offer.

(h) If litigation costs and expenses are to be awarded against a defendant in a case in which one or more statutory limitations on damages apply, the limitations on damages do not

1 limit the recovery of costs and expenses under this chapter. Costs
2 and expenses recoverable by a claimant under this chapter are
3 independent of and may be awarded in addition to any damages, even
4 if the award results in payment to the claimant of an amount in
5 excess of applicable statutory limitations on damages.

6 SECTION 3. Subsection (b), Section 42.005, Civil Practice
7 and Remedies Code, is amended to read as follows:

8 (b) The rules promulgated by the supreme court must provide:

9 (1) the date by which a party [~~defendant~~] or parties
10 [~~defendants~~] must file the declaration required by Section
11 42.002(c);

12 (2) the date before which a party may not make a
13 settlement offer;

14 (3) the date after which a party may not make a
15 settlement offer; and

16 (4) procedures for:
17 (A) making an initial settlement offer;
18 (B) making successive settlement offers;
19 (C) withdrawing a settlement offer;
20 (D) accepting a settlement offer;
21 (E) rejecting a settlement offer; and
22 (F) modifying the deadline for making,
23 withdrawing, accepting, or rejecting a settlement offer.

24 SECTION 4. The change in law made by this Act applies only
25 to an action filed on or after the effective date of this Act. An
26 action filed before the effective date of this Act is governed by
27 the law in effect immediately before that date, and that law is

S.B. No. 1855

1 continued in effect for that purpose.