

By: Kleinschmidt, Creighton, Madden,
S. Davis of Harris, Sheets

H.B. No. 2661

Substitute the following for H.B. No. 2661:

By: Lewis

C.S.H.B. No. 2661

A BILL TO BE ENTITLED

AN ACT

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relating to settlement of certain civil actions.

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

SECTION 1. Sections 42.001(5) and (6), Civil Practice and Remedies Code, are amended to read as follows:

(5) "Litigation costs" means money actually spent and obligations actually incurred that are directly related to the action [~~case~~] in which a settlement offer is made. The term includes:

(A) court costs;

(B) reasonable fees for not more than two testifying expert witnesses; [~~and~~]

(C) reasonable attorney's fees; and

(D) reasonable deposition costs.

(6) "Settlement offer" means an offer to settle or compromise a claim made in compliance with Section 42.003 [~~this chapter~~].

SECTION 2. Sections 42.002(b), (d), and (e), Civil Practice and Remedies Code, are amended to read as follows:

(b) This chapter does not apply to:

(1) a class action;

(2) a shareholder's derivative action;

(3) an action by or against a governmental unit;

(4) an action brought under the Family Code;

1 (5) an action to collect workers' compensation
2 benefits under Subtitle A, Title 5, Labor Code; or

3 (6) an action filed in a justice of the peace court or
4 a small claims court.

5 (d) This chapter does not limit or affect the ability of any
6 person to:

7 (1) make an offer to settle or compromise a claim that
8 does not comply with Section 42.003 [~~this chapter~~]; or

9 (2) offer to settle or compromise a claim in an action
10 to which this chapter does not apply.

11 (e) An offer to settle or compromise that does not comply
12 with Section 42.003 [~~is not made under this chapter~~] or an offer to
13 settle or compromise made in an action to which this chapter does
14 not apply does not entitle any [~~the offering~~] party to recover
15 litigation costs under this chapter.

16 SECTION 3. Section 42.003, Civil Practice and Remedies
17 Code, is amended to read as follows:

18 Sec. 42.003. MAKING SETTLEMENT OFFER. (a) After a
19 defendant files a declaration under Section 42.002(c), the
20 defendant filing the declaration and any party with a claim against
21 that defendant may make a settlement offer to settle all claims in
22 the action between the parties.

23 (b) A settlement offer must:

24 (1) be in writing;

25 (2) state that it is made under this chapter;

26 (3) state the terms by which the claims may be settled;

27 (4) state a deadline by which the settlement offer

1 must be accepted; and

2 (5) be served on all parties to whom the settlement
3 offer is made.

4 (c) The parties are not required to file a settlement offer
5 with the court.

6 SECTION 4. Section 42.004(c), Civil Practice and Remedies
7 Code, is amended to read as follows:

8 (c) The litigation costs that may be recovered by the
9 offering party under this section are limited to those litigation
10 costs incurred by the offering party after the date the rejecting
11 party rejected the earliest settlement offer that entitles the
12 party to an award of litigation costs under this section.

13 SECTION 5. Sections 42.004(d) and (g), Civil Practice and
14 Remedies Code, are repealed.

15 SECTION 6. The changes in law made by this Act to Chapter
16 42, Civil Practice and Remedies Code, apply only to a civil action
17 commenced on or after the effective date of this Act. A civil
18 action commenced before the effective date of this Act is governed
19 by the law in effect immediately before the effective date of this
20 Act, and that law is continued in effect for that purpose.

21 SECTION 7. This Act takes effect September 1, 2011.