

By: Dutton

H.B. No. 3673

A BILL TO BE ENTITLED

AN ACT

relating to offers of settlement in civil cases.

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

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

(c) This chapter does not apply until a claimant or defendant files a declaration that the settlement procedure allowed by this 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 claimant or defendant that filed the declaration and to the parties that make or receive offers of settlement in relation to that claimant or defendant.

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

(a) If a settlement offer is made and rejected and the judgment to be awarded by the trier of fact [~~rendered~~] will be significantly less favorable to the rejecting party than was the settlement offer, the offering party shall recover litigation costs from the rejecting party.

(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 amount of the judgment awarded by the trier of fact [~~award~~] will be less than

1 80 percent of the rejected offer; or

2 (2) the rejecting party is a defendant and the amount
3 of the judgment awarded by the trier of fact [~~award~~] will be more
4 than 120 percent of the rejected offer.

5 (h) For a claim in which there is a statutory cap on the
6 amount of damages that may be awarded against a defendant:

7 (1) a court may not consider that litigation costs
8 awarded under this chapter to a claimant are damages for purposes of
9 the statutory cap; and

10 (2) the statutory cap does not limit the recovery of
11 litigation costs awarded under this chapter, without regard to
12 whether the inclusion of those costs in the overall award to the
13 claimant results in payment to the claimant of an amount in excess
14 of the statutory cap.

15 SECTION 3. The change in law made by this Act applies to any
16 settlement offer made in a civil cause of action on or after the
17 effective date of this Act, without regard to whether the cause of
18 action accrued before, on, or after that date.

19 SECTION 4. This Act takes effect September 1, 2011.