

By: Raymond

H.B. No. 3404

A BILL TO BE ENTITLED

AN ACT

relating to limits on certain actions arising out of attorney's fee agreements and litigation expense agreements.

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

SECTION 1. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 165 to read as follows:

CHAPTER 165. LIMITATION OF ACTION ON CERTAIN ATTORNEY'S FEE AGREEMENTS AND LITIGATION EXPENSE AGREEMENTS

Sec. 165.001. LIMITATION OF ACTION ON CERTAIN ATTORNEY'S FEE AGREEMENTS AND LITIGATION EXPENSE AGREEMENTS. (a) A party to an attorney's fee agreement or litigation expense agreement to which this section applies, or a successor, heir, agent, attorney, or assignee of the party, may not bring an action on a claim arising out of the settlement agreement or the representation that is the subject of the agreement except as provided by this section.

(b) This section applies to an attorney's fee agreement and litigation expense agreement in which the fee is contingent on the outcome of the matter for which the service is rendered and which states in writing:

- (1) the method by which the fee is to be determined;
- (2) the litigation and other expenses to be deducted from the recovery; and
- (3) whether litigation expenses and other expenses are to be deducted before or after the contingent fee is calculated.

1       (c) With respect to a case in which an attorney represents  
2 two or more clients and makes an aggregate settlement of the  
3 clients' claims, this section applies to a settlement agreement  
4 approved by the client at the conclusion of the litigation that  
5 additionally includes disclosure of:

6           (1) the existence and nature of all claims or pleas  
7 involved;

8           (2) the nature and extent of the participation of each  
9 client in the settlement; and

10          (3) the amount of remittance to each client and the  
11 method by which the remittance is to be determined.

12       (d) A party may bring an action on a claim arising out of a  
13 settlement agreement to which this section applies or the  
14 representation that is the subject of the agreement only on the  
15 ground that the agreement was obtained by corruption, coercion, or  
16 force or that the agreement was forged as provided by Section 32.21,  
17 Penal Code.

18       (e) In an action on a claim arising out of a settlement  
19 agreement described by Subsection (c), or the settlement that is  
20 the subject of the agreement, brought on grounds other than those  
21 provided by Subsection (d), the settlement is irrebuttably presumed  
22 to be:

23           (1) fully disclosed, read, understood, and  
24 voluntarily entered into by all parties to the agreement;

25           (2) fair, accepted, reasonable, and made in the best  
26 interests of the parties by the parties or through their attorneys;

27 and

1           (3) final and not subject to subsequent litigation.

2           (f) On motion of a party, a court shall dismiss with  
3 prejudice an action on a claim arising out of a settlement agreement  
4 to which this section applies or the representation that is the  
5 subject of the agreement if the action is brought on grounds other  
6 than those provided by Subsection (d).

7           SECTION 2. The change in law made by this Act applies only  
8 to an action commenced or settled, or in which judgment was entered,  
9 on or after the effective date of this Act. An action commenced or  
10 settled, or in which judgment was entered, before the effective  
11 date of this Act is governed by the law in effect immediately before  
12 that date, and the former law is continued in effect for that  
13 purpose.

14           SECTION 3. This Act takes effect September 1, 2013.