

By: Hughes, et al.

S.B. No. 813

A BILL TO BE ENTITLED

AN ACT

relating to recovery of damages, attorney's fees, and costs related to frivolous regulatory actions by state agencies.

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

SECTION 1. The heading to Chapter 105, Civil Practice and Remedies Code, is amended to read as follows:

CHAPTER 105. FRIVOLOUS CLAIM OR REGULATORY ACTION BY STATE AGENCY

SECTION 2. The heading to Section 105.002, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 105.002. RECOVERY OF FEES, EXPENSES, AND ATTORNEY'S FEES FOR FRIVOLOUS CLAIM.

SECTION 3. Chapter 105, Civil Practice and Remedies Code, is amended by adding Sections 105.005 and 105.006 to read as follows:

Sec. 105.005. CAUSE OF ACTION FOR FRIVOLOUS REGULATORY ACTION. (a) A claimant may bring an action against a state agency if the state agency takes a regulatory action against the claimant that is frivolous, unreasonable, or without foundation.

(b) In an action brought under this section, a claimant may recover, in addition to all other costs allowed by law or rule, the damages caused by the state agency's frivolous regulatory action, reasonable attorney's fees, and court costs.

Sec. 105.006. RECOVERY OF ATTORNEY'S FEES AND COSTS IN FRIVOLOUS REGULATORY ACTION. A person may recover, in addition to

1 all other costs allowed by law or rule, reasonable attorney's fees  
2 and costs incurred in defending against a frivolous regulatory  
3 action during an administrative proceeding and judicial review of  
4 that proceeding if:

5 (1) the person prevails in the judicial review of an  
6 administrative proceeding; and

7 (2) the state agency is unable to demonstrate that the  
8 agency has good cause for the regulatory action.

9 SECTION 4. The change in law made by this Act applies only  
10 to a regulatory action taken on or after the effective date of this  
11 Act. A regulatory action taken before the effective date of this  
12 Act is governed by the law applicable to the regulatory action  
13 immediately before the effective date of this Act, and that law is  
14 continued in effect for that purpose.

15 SECTION 5. This Act takes effect September 1, 2017.