

By: Hefner

H.B. No. 3936

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. 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. A party to a civil suit in a court of this state brought by or against a state agency in which the agency asserts a cause of action against the party, either originally or as a counterclaim or cross claim, is entitled to recover, in addition to all other costs allowed by law or rule, a total amount not to exceed \$1 million for fees, expenses, and reasonable attorney's fees incurred by the party in defending the agency's action if:

(1) the court finds that the action is frivolous[~~unreasonable, or without foundation~~]; and

(2) the action is dismissed or judgment is awarded to the party.

SECTION 2. Section 105.003(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) To recover under Section 105.002 [~~this chapter~~], the party must file a written motion alleging that the agency's claim is frivolous[~~unreasonable, or without foundation~~]. The motion may be filed at any time after the filing of the pleadings in which the

1 agency's cause of action is alleged.

2 SECTION 3. Subchapter Z, Chapter 2001, Government Code, is  
3 amended by adding Section 2001.903 to read as follows:

4 Sec. 2001.903. RECOVERY OF ATTORNEY'S FEES AND COSTS IN  
5 CONTESTED CASES INVOLVING FRIVOLOUS REGULATORY ACTION. The  
6 administrative law judge or court reviewing a contested case may  
7 award a person, in addition to all other costs allowed by law, an  
8 amount not to exceed \$1 million for reasonable attorney's fees and  
9 costs incurred in defending against a frivolous regulatory action  
10 during the case and judicial review of that case if:

- 11 (1) the person prevails in the case; and  
12 (2) the administrative law judge or court, as  
13 applicable, finds that the regulatory action is frivolous.

14 SECTION 4. The change in law made by this Act applies only  
15 to a claim filed or regulatory action taken on or after the  
16 effective date of this Act. A claim filed or regulatory action  
17 taken before the effective date of this Act is governed by the law  
18 applicable to the claim or regulatory action immediately before the  
19 effective date of this Act, and that law is continued in effect for  
20 that purpose.

21 SECTION 5. This Act takes effect September 1, 2019.