By:  Guerra (Senate Sponsor - Hughes) H.B. No. 3129

(In the Senate - Received from the House May 3, 2023; May 5, 2023, read first time and referred to Committee on Jurisprudence; May 19, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 4, Nays 1; May 19, 2023, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hughes            X

Johnson                  X

Creighton            X

Hinojosa             X

Middleton            X

COMMITTEE SUBSTITUTE FOR H.B. No. 3129 By:  Hughes

A BILL TO BE ENTITLED

AN ACT

relating to redesignation of certain provisions describing court orders eligible for an interlocutory appeal and a stay of proceedings pending certain interlocutory appeals.

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

SECTION 1.  Section 51.014(a), Civil Practice and Remedies Code, as amended by Chapters 167 (S.B. 232), 528 (S.B. 6), and 813 (H.B. 2086), Acts of the 87th Legislature, Regular Session, 2021, is reenacted and amended to read as follows:

(a)  A person may appeal from an interlocutory order of a district court, county court at law, statutory probate court, or county court that:

(1)  appoints a receiver or trustee;

(2)  overrules a motion to vacate an order that appoints a receiver or trustee;

(3)  certifies or refuses to certify a class in a suit brought under Rule 42 of the Texas Rules of Civil Procedure;

(4)  grants or refuses a temporary injunction or grants or overrules a motion to dissolve a temporary injunction as provided by Chapter 65;

(5)  denies a motion for summary judgment that is based on an assertion of immunity by an individual who is an officer or employee of the state or a political subdivision of the state;

(6)  denies a motion for summary judgment that is based in whole or in part upon a claim against or defense by a member of the electronic or print media, acting in such capacity, or a person whose communication appears in or is published by the electronic or print media, arising under the free speech or free press clause of the First Amendment to the United States Constitution, or Article I, Section 8, of the Texas Constitution, or Chapter 73;

(7)  grants or denies the special appearance of a defendant under Rule 120a, Texas Rules of Civil Procedure, except in a suit brought under the Family Code;

(8)  grants or denies a plea to the jurisdiction by a governmental unit as that term is defined in Section 101.001;

(9)  denies all or part of the relief sought by a motion under Section 74.351(b), except that an appeal may not be taken from an order granting an extension under Section 74.351;

(10)  grants relief sought by a motion under Section 74.351(l);

(11)  denies a motion to dismiss filed under Section 90.007;

(12)  denies a motion to dismiss filed under Section 27.003;

(13)  denies a motion for summary judgment filed by an electric utility regarding liability in a suit subject to Section 75.0022;

(14)  denies a motion filed by a municipality with a population of 500,000 or more in an action filed under Section 54.012(6) or 214.0012, Local Government Code; [~~or~~]

(15)  makes a preliminary determination on a claim under Section 74.353;

(16) [~~(15)~~]  overrules an objection filed under Section 148.003(d) or denies all or part of the relief sought by a motion under Section 148.003(f); or

(17) [~~(15)~~]  grants or denies a motion for summary judgment filed by a contractor based on Section 97.002.

SECTION 2.  Section 51.014, Civil Practice and Remedies Code, is amended by amending Subsection (b) and adding Subsections (c-1) and (c-2) to read as follows:

(b)  An interlocutory appeal under Subsection (a), other than an appeal under Subsection (a)(4) or in a suit brought under the Family Code, stays the commencement of a trial in the trial court pending resolution of the appeal. An interlocutory appeal under Subsection (a)(3), (5), or (8)[~~, or (12)~~] also stays all other proceedings in the trial court pending resolution of that appeal. An interlocutory appeal under Subsection (a)(12) stays commencement of a trial and other proceedings in the trial court as provided by Subsection (c-1).

(c-1)  A denial of a motion to dismiss described by Subsection (a)(12):

(1)  stays commencement of a trial and other proceedings in the trial court until the 61st day after the date the order denying the motion is signed if the order denying the motion states the motion was:

(A)  denied as not timely filed under Section 27.003(b);

(B)  denied because the action is exempt under a specified subdivision of Section 27.010(a); or

(C)  determined to be frivolous or solely intended to delay under Section 27.009(b); or

(2)  stays commencement of a trial and other proceedings in the trial court pending resolution of the appeal if the motion was denied for a reason not provided by Subdivision (1) or the order does not state a reason for denying the motion.

(c-2)  For a denial of a motion to dismiss to which Subsection (c-1)(1) applies, the court of appeals in which the appeal from the order denying the motion to dismiss is filed may stay commencement of trial and other proceedings in the trial court on a determination that the appellant is likely to succeed on the merits or in the interest of justice.

SECTION 3.  The change in law made by this Act applies only to the denial of a motion to dismiss ordered on or after the effective date of this Act. A denial of a motion to dismiss ordered before the effective date of this Act is governed by the law applicable to the denial immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4.  This Act takes effect September 1, 2023.

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