

By: Landgraf

H.B. No. 40

A BILL TO BE ENTITLED

AN ACT

relating to the Business Court.

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

SECTION 1. Section 25A.001, Government Code, is amended by amending Subsection (14) and adding Subsection (15) to read as follows:

(14) "Qualified transaction" means a transaction or series of related transactions, other than a transaction involving a loan or an advance of money or credit by a bank, credit union, or savings and loan institution, under which one or more parties~~a party~~:

(A) pays or receives, or is obligated to pay or is entitled to receive, consideration with an aggregate value of at least \$5 ~~[\$10]~~ million; or

(B) lends, advances, borrows, receives, is obligated to lend or advance, or is entitled to borrow or receive money or credit with an aggregate value of at least \$5 ~~[\$10]~~ million.

(15) "Fundamental business transaction" means a merger, interest exchange, conversion, or sale of all or substantially all of an entity's assets.

SECTION 2. Section 25A.003, Government Code, is amended by amending Subsections (d), (g), (h), (i), (k), (l), and (m) to read as follows:

1 (d) The Second Business Court Division is composed of the
2 counties composing the Second Administrative Judicial Region under
3 Section 74.042(c), excluding Montgomery County, subject to funding
4 through legislative appropriations. ~~[The division is abolished~~
5 ~~September 1, 2026, unless reauthorized by the legislature and~~
6 ~~funded through additional legislative appropriations.]~~

7 (g) The Fifth Business Court Division is composed of the
8 counties composing the Fifth Administrative Judicial Region under
9 Section 74.042(f), subject to funding through legislative
10 appropriations. ~~[The division is abolished on September 1, 2026,~~
11 ~~unless reauthorized by the legislature and funded through~~
12 ~~additional legislative appropriations.]~~

13 (h) The Sixth Business Court Division is composed of the
14 counties composing the Sixth Administrative Judicial Region under
15 Section 74.042(g), subject to funding through legislative
16 appropriations. ~~[The division is abolished on September 1, 2026,~~
17 ~~unless reauthorized by the legislature and funded through~~
18 ~~additional legislative appropriations.]~~

19 (i) The Seventh Business Court Division is composed of the
20 counties composing the Seventh Administrative Judicial Region
21 under Section 74.042(h), subject to funding through legislative
22 appropriations. ~~[The division is abolished on September 1, 2026,~~
23 ~~unless reauthorized by the legislature and funded through~~
24 ~~additional legislative appropriations.]~~

25 (k) The Ninth Business Court Division is composed of the
26 counties composing the Ninth Administrative Judicial Region under
27 Section 74.042(j), subject to funding through legislative

1 appropriations. ~~[The division is abolished on September 1, 2026,~~
2 ~~unless reauthorized by the legislature and funded through~~
3 ~~additional legislative appropriations.]~~

4 (1) The Tenth Business Court Division is composed of the
5 counties composing the Tenth Administrative Judicial Region under
6 Section 74.042(k), subject to funding through legislative
7 appropriations. ~~[The division is abolished on September 1, 2026,~~
8 ~~unless reauthorized by the legislature and funded through~~
9 ~~additional legislative appropriations.]~~

10 (m) The Eleventh Business Court Division is composed of the
11 counties composing the Eleventh Administrative Judicial Region
12 under Section 74.042(l) and Montgomery County.

13 SECTION 3. Section 25A.004, Government Code, is amended by
14 amending Subsections (b), (d), (e), (f), (g) and (h) and adding
15 Subsections (i), (j), (k) and (l) to read as follows:

16 (b) Subject to Subsection (c), the business court has civil
17 jurisdiction concurrent with district courts in the following
18 actions in which the amount in controversy exceeds \$5 million,
19 excluding interest, statutory damages, exemplary damages,
20 penalties, attorney's fees, and court costs:

21 (1) a derivative proceeding;

22 (2) an action regarding the governance, governing
23 documents, or internal affairs of an organization;

24 (3) an action in which a claim under a state or federal
25 securities or trade regulation law is asserted against:

26 (A) an organization;

27 (B) a controlling person or managerial official

1 of an organization for an act or omission by the organization or by
2 the person in the person's capacity as a controlling person or
3 managerial official;

4 (C) an underwriter of securities issued by the
5 organization; or

6 (D) the auditor of an organization;

7 (4) an action by an organization, or an owner of an
8 organization, if the action:

9 (A) is brought against an owner, controlling
10 person, or managerial official of the organization; and

11 (B) alleges an act or omission by the person in
12 the person's capacity as an owner, controlling person, or
13 managerial official of the organization;

14 (5) an action alleging that an owner, controlling
15 person, or managerial official breached a duty owed to an
16 organization or an owner of an organization by reason of the
17 person's status as an owner, controlling person, or managerial
18 official, including the breach of a duty of loyalty or good faith;

19 (6) an action seeking to hold an owner or governing
20 person of an organization liable for an obligation of the
21 organization, other than on account of a written contract signed by
22 the person to be held liable in a capacity other than as an owner or
23 governing person; ~~and~~

24 (7) an action arising out of the Business
25 Organizations Code, including an action over which a district court
26 is given jurisdiction, original or exclusive, by the Business
27 Organizations Code;

1 (8) an action arising out of:

2 (A) an insurance contract or other arrangement to
3 indemnify or hold harmless an organization or its current or former
4 controlling persons, managerial officials, employees and agents,
5 or to advance expenses to such persons, against losses arising from
6 their service in these positions or their alleged wrongful or
7 negligent actions; or

8 (B) a reinsurance contract relating to an
9 insurance contract or other arrangement described in subparagraph
10 (A); and

11 (9) an action arising out of a fundamental business
12 transaction, including:

13 (A) an action arising out of an insurance
14 contract or other arrangement providing insurance or indemnity to
15 parties to a fundamental business transaction against agreed
16 payment obligations, losses, or expenses; and

17 (B) an action to enforce an agreement not to
18 compete related to a fundamental business transaction if the action
19 is against an organization that is party to the transaction or a
20 controlling person or managerial official of the organization;

21 (d) The business court has civil jurisdiction concurrent
22 with district courts in the following actions in which the amount in
23 controversy exceeds \$5 [~~\$10~~] million, excluding interest,
24 statutory damages, exemplary damages, penalties, attorney's fees,
25 and court costs:

26 (1) an action arising out of a qualified transaction;

27 (2) an action arising [~~that arises~~] out of a business,

1 commercial, or investment contract or [~~commercial~~] transaction in
2 which the parties to the contract or transaction agreed in the
3 contract or a subsequent agreement that the business court has
4 jurisdiction of the action, except an action that arises out of an
5 insurance contract; [~~and~~]

6 (3) subject to Subsection (g), an action arising [~~that~~
7 ~~arises~~] out of a violation of the Finance Code or Business &
8 Commerce Code by an organization or an officer or governing person
9 acting on behalf of an organization other than a bank, credit union,
10 or savings and loan association;

11 (4) an action to enforce an arbitration agreement,
12 appoint an arbitrator, or review an arbitral award or other
13 judicial actions authorized by the agreement, Chapters 171 or 172,
14 Civil Practice and Remedies Code, or the Federal Arbitration Act (9
15 U.S.C. Sections 1-16), if a claim included in the controversy in
16 arbitration, including the amount in controversy, is described in
17 Subsections (b), (c), or (d), and without regard to whether the
18 specific action pursued in the business court involves an amount in
19 excess of \$5 million;

20 (5) an action arising from or relating to the
21 ownership, use, licensing, lease, installation, or performance of
22 intellectual property, including:

23 (A) computer software, software applications,
24 information technology and systems, data and data security,
25 pharmaceuticals, biotechnology products, and bioscience
26 technologies; and

27 (B) trade secrets as defined in Section

1 134A.002(6), Civil Practice and Remedies Code;

2 (6) an action arising under Chapter 134A, Civil
3 Practice and Remedies Code; and

4 (7) an action arising out of malpractice or
5 professional misconduct by an attorney, certified public
6 accountant, or other licensed professional where the client of the
7 professional is an organization, including claims by, against and
8 among insurers and reinsurers providing professional liability
9 insurance covering claims against the professionals or
10 organizations employing them.

11 (e) In actions within its jurisdiction, the business court
12 has authority to grant injunctive and other equitable relief,
13 declaratory judgments, and other relief that may be granted by a
14 district court. The business court also has civil jurisdiction
15 concurrent with district courts in an action seeking only
16 injunctive or other equitable relief or a declaratory judgment
17 under Chapter 37, Civil Practice and Remedies Code, involving a
18 dispute that is described in ~~[based on a claim within the court's~~
19 ~~jurisdiction under]~~ Subsection (b) without regard to the amount in
20 controversy.

21 (f) Except as provided by Subsection (h), in any action in
22 which the business court has original jurisdiction pursuant to
23 Subsection (b), (c), (d), or (e), it shall have supplemental
24 jurisdiction over any other claim not described in these
25 subsections that is so related to a claim included in the action
26 that is ~~[case or controversy]~~ within the court's jurisdiction that
27 it ~~[within the court's jurisdiction that]~~ forms part of the same

case or controversy. The court's supplemental jurisdiction includes claims that require the joinder or intervention of additional parties. ~~[A claim within the business court's supplemental jurisdiction may proceed in the business court only on the agreement of all parties to the claim and a judge of the division of the court before which the action is pending].~~ If ~~[the parties involved in]~~ a claim within the business court's supplemental jurisdiction does not proceed ~~[do not agree on the claim proceeding]~~ in the business court, the claim may proceed in a court of original jurisdiction concurrently with any related claims proceeding in the business court.

(g) Unless the claim falls within the business court's supplemental jurisdiction, the business court does not have jurisdiction of:

(1) a claim made in a civil action:

(A) brought by or against a governmental entity;

or

(B) seeking to foreclose on a lien on real or personal property owned by an individual at the time the action was filed;

(2) a claim arising out of:

(A) Subchapter E, Chapter 15, ~~[and Chapter 17,]~~ Business & Commerce Code, other than a claim described in Subparagraph (b)(9)(B);

(B) the Estates Code;

(C) the Family Code;

(D) Chapter 17, Business & Commerce Code ~~[the~~

~~Insurance Code~~; or

(E) Chapter 53 and Title 9, Property Code;

(3) a claim arising out of the production or sale of a farm product, as that term is defined by Section 9.102, Business & Commerce Code;

~~[(4) a claim related to a consumer transaction, as that term is defined by Section 601.001, Business & Commerce Code, to which a consumer in this state is a party, arising out of a violation of federal or state law,] or~~

~~[(5)]~~ (4) a claim related to the duties and obligations under an insurance policy.

(h) The business court does not have jurisdiction of the following claims regardless of whether the claim is otherwise within the court's supplemental jurisdiction under Subsection (f):

(1) a claim arising under Chapter 74, Civil Practice and Remedies Code;

(2) a claim in which a party seeks recovery of monetary damages for bodily injury or death; or

(3) a claim of legal malpractice other than a claim described in Section 25A.004(d)(7).

(i) If two or more persons originally and properly join in one action, the action for jurisdictional purposes is treated as if one party is suing for the aggregate amount of all their claims added together for purposes of the amount in controversy requirements set forth in Subsections (b), (d), and (e). This section does not prevent jurisdiction from attaching on any other ground.

1 (j) The business court has civil jurisdiction concurrent
2 with district courts in an action transferred to the business court
3 by the judicial panel on multidistrict litigation pursuant to
4 Subchapter H, Chapter 74, without regard to the amount in
5 controversy in any single action or whether the county from which
6 the action is transferred to the business court is within an active
7 business court division, so long as the business court otherwise
8 has jurisdiction to hear the action under Subsection 25A.004.

9 (k) The supreme court shall adopt rules of civil and
10 judicial procedure providing for the prompt determination of
11 business court jurisdiction, efficiently and with substantial
12 finality, in the early stages of a proceeding, which rules are to
13 reflect due consideration of:

14 (1) the business court's purpose of efficiently
15 addressing complex business litigation in a manner comparable to,
16 if not more effectively than, the business and commercial courts
17 operating in other states;

18 (2) the many commonalities of law and procedure
19 existing between the business court and district courts as trial
20 courts functioning under the Texas Constitution and within the
21 Judicial Branch of the State of Texas;

22 (3) the limited potential for the movement of an
23 action between the district courts and the business court in order
24 to increase judicial efficiency to raise issues of fundamental
25 fairness or the preservation of constitutionally or statutorily
26 protected rights of the parties; and

27 (4) the changing needs of business litigants and their

1 counsel for guidance in their usage of the business court and the
2 Fifteenth Court of Appeals over time as those courts develop a body
3 of precedent and practice that is currently not available.

4 (1) The rules of civil and judicial procedure adopted
5 pursuant to Subsection (k) may utilize judicial determinations
6 based upon pleadings or summary proceedings, establish
7 appropriately differing standards of proof, establish limited time
8 periods during which issues or rights must be asserted or be deemed
9 agreed to or waived, establish review of business court actions by a
10 another judge or panel of judges, including regional presiding
11 judges and the administrative presiding judge of the business
12 court, allow, require or prohibit interlocutory appeals or provide
13 for accelerated appeals. The foregoing list is not exclusive.

14 SECTION 4. Chapter 25A, Government Code, is amended by
15 adding the Sections 25A.0041 and 25A.0042 to read as follows:

16 Sec. 25A.0041. ASSIGNMENT OF JUDGE OR TRANSFER OF CASE ON
17 RECUSAL. If a business court judge determines on the judge's own
18 motion that the judge should not sit in a case pending in the
19 judge's court because the judge is disqualified or otherwise should
20 recuse himself or herself, the judge shall enter a recusal order,
21 request the presiding judge of the business court to assign another
22 judge of the business court to sit, and take no further action
23 except for good cause stated in the order in which the action is
24 taken. A change of venue is not necessary because of the
25 disqualification of a business court judge.

26 Sec. 25A.0042. EXPENSES OF BUSINESS COURT JUDGE. (a) A
27 business court judge engaged in the discharge of official duties in

1 a location other than the county of the judge's chambers is entitled
2 to traveling and other necessary expenses, as provided by Chapter
3 660.

4 (b) A business court judge is entitled to receive from the
5 state the actual and necessary postage, telephone and
6 telecommunications expenses incurred in the discharge of official
7 duties.

8 (c) The official duties of business court judges include:

9 (1) making educational presentations regarding the
10 business court to legal and business groups; and

11 (2) attending educational meetings in Texas and other
12 states of the United States relating to business law, business
13 litigation, and the function of the business court.

14 SECTION 5. Section 25A.006(a), Government Code, is amended
15 to read as follows:

16 (a) An action within the jurisdiction of the business court
17 may be filed in the business court. The party filing the action
18 must plead facts to establish venue in a county in a division of the
19 business court, and the business court shall assign the action to
20 that division. Venue may be established as provided by law, as
21 provided in each party's governing documents or, if a written
22 contract specifies a county as venue for the action, as provided by
23 the contract.

24 SECTION 6. Section 25A.007(a), Government Code, is amended
25 to read as follows:

26 Sec. 25A.007. APPEALS. (a) Notwithstanding any other law
27 and except [~~as provided by Subsection (b) and~~] in instances when the

1 supreme court has concurrent or exclusive jurisdiction, the
2 Fifteenth Court of Appeals has exclusive jurisdiction over an
3 appeal from an order or judgment of the business court or an
4 original proceeding related to an action or order of the business
5 court. Any statute or rule of this state requiring that an appeal
6 from an order or judgement of the business court be appealed to any
7 court of appeals other than the Fifteenth Court of Appeals, and any
8 statute later enacted that does not expressly reference this
9 section, shall not be given effect and all such appeals from the
10 business court shall be heard by the Fifteenth Court of Appeals.

11 SECTION 7. Section 25A.009, Government Code, is amended by
12 amending Subsections (a) and (d), and adding Subsection (a-1), to
13 read as follows:

14 (a) The governor, with the advice and consent of the senate,
15 shall appoint:

16 (1) two judges to each of the First, Third, Fourth,
17 Eighth, and Eleventh Divisions of the business court; and

18 (2) one judge to each of the Second, Fifth, Sixth,
19 Seventh, Ninth, and Tenth Divisions of the business court, and one
20 additional judge to each of the First and Eleventh Divisions of the
21 business court, if the legislature makes a specific appropriation
22 of money for that purpose.

23 (a-1) Newly appointed judges of the business court may
24 commence employment by the State of Texas and begin receiving their
25 compensation for service as judges of the business court up to 30
26 days prior to their first day on the bench to allow time for
27 training, organization of staff and chambers and study of business

court precedent, procedure and pending case filings.

(d) Not later than September 15 of every even-numbered year
~~[the seventh day after the first day of a term]~~, the business court
judges by majority vote shall select a judge of the court to serve
as administrative presiding judge and a judge serving a different
division of the business court to serve as administrative presiding
judge pro tempore, each to serve until September 15 of the next
even-numbered year ~~[for the duration of the term]~~. If a vacancy
occurs in the position of administrative presiding judge, the
administrative presiding judge pro tempore is to serve as
administrative presiding judge, and the remaining business court
judges by majority vote shall select a judge of the court to serve
as successor administrative presiding judge pro tempore, for the
remainder of the unexpired term as soon as practicable. The
administrative presiding judge pro tempore is to act as
administrative presiding judge in any matter as delegated by the
administrative presiding judge or when the administrative
presiding judge is unable to serve or take action.

(d-1) Notwithstanding the salary limitations set forth in
Subsection 659.012(a), in addition to the salary a business court
judge is entitled to under Section 659.012, the administrative
presiding judge of the business court is entitled to compensation
from the state in an amount equal to the maximum amount of
additional compensation paid by the state under Section 659.012(d)
to a local administrative district judge responsible for a number
of courts equal to the number of business court judges.

SECTION 8. Section 25A.014, Government Code, is amended by

amending Subsection (a) and adding Subsection (c) to read as follows:

Sec. 25A.014. VISITING JUDGE. (a) A retired or former judge or justice, or an active district court judge, who has the qualifications prescribed by Section 25A.008 may be assigned as a visiting judge of a division of the business court by the chief justice of the supreme court. A visiting judge of a division of the business court is subject to objection, disqualification, or recusal under Chapter 74, in the same manner as a retired or former judge or justice, or an active district court judge, is subject to objection, disqualification, or recusal if appointed as a visiting district judge.

(c) The chief justice of the supreme court may assign an active judge of the business court to serve as a visiting judge of a district court or constitutional county or statutory county court located in the division served by the judge of the business court. The judge of the business court serving as a visiting judge is subject to objection, disqualification, or recusal under Chapter 74, in the same manner as an active judge or justice, or an active district court judge, is subject to objection, disqualification, or recusal if appointed as a visiting judge.

SECTION 9. Section 25A.017, Government Code, is amended by amending Subsections (c), (d), and (h) and adding Subsection (i) to read as follows:

(c) Each business court judge shall maintain chambers in the county the judge selects within the geographic boundaries of the division to which the judge is appointed that is the most populous

county located in the division, or in a county located in the
division that is adjacent to that county, in facilities provided by
 this state. The chief justice may approve the location of a
business court judge's chambers in another county within the
business court division served by the judge. For purposes of this
 section, the Office of Court Administration of the Texas Judicial
 System may contract for the use of facilities with a county, or any
other unit of state or local government.

(d) Subject to Section 25A.015, a business court judge may
 hold court at any courtroom within the geographic boundaries of the
 division to which the judge is appointed as the court determines
 necessary or convenient for a particular civil action. A ~~[To the~~
~~extent practicable, a]~~ county [using existing courtrooms and
~~facilities]~~ shall accommodate the business court in the conduct of
 the court's hearings and other proceedings in courtrooms and
facilities equivalent to those provided to district courts. A
county may seek reimbursement from the state in an amount equal to
the market rate in the county calculated by the Texas Facilities
Commission for this purpose. Counties in planning and implementing
additions and improvements to their courtrooms and facilities shall
include the reasonably anticipated requirements of the business
court.

(h) In a county in which a division of the business court
 sits or a judge of the business court maintains chambers, the
business court or Office of Court Administration of the Texas
Judicial System may require the sheriff, the sheriff's deputy, or
other licensed peace officer employed by the state, county or other

1 governmental authority, to ~~[shall in person or by deputy]~~ attend
2 the business court and provide security for its judges ~~[as required~~
3 ~~by the court]~~. The ~~[sheriff or the deputy is]~~ officers providing
4 such services are entitled to reimbursement from this state for the
5 cost of attending the business court and providing security for its
6 judges.

7 (i) The business court or Office of Court Administration of
8 the Texas Judicial System may require the Department of Public
9 Safety to provide security services to the business court and its
10 judges.

11 SECTION 10. Subsection 25A.0171(e), Government Code, is
12 amended to read as follows:

13 (e) Not later than December 1 of each year, the Office of
14 Court Administration of the Texas Judicial System shall submit to
15 the legislature a report on the ~~[number and types of cases heard by]~~
16 case activity of the business court in the preceding year,
17 including:

18 (1) the caseloads of each of the judges of the business
19 court in the preceding year;

20 (2) the extent to which judges have been assigned to
21 hear cases in other divisions in order to equalize caseloads;

22 (3) projections of the expected caseloads of the
23 business court judges during the succeeding two-year period; and

24 (4) recommendations regarding action by any of the
25 legislature, the governor, the chief justice or the business court
26 to ensure that the business court can meet existing and projected
27 demand for its services during that two-year period.

SECTION 11. Chapter 25A, Government Code, is amended by adding Section 25A.0210 to read as follows:

Sec. 25A.0210. ACTIONS COMMENCED ON OR BEFORE SEPTEMBER 1, 2024. Notwithstanding Section 8, Chapter 380 (H.B. 19), Acts of the 88th Legislature, Regular Session, 2023, civil actions commenced prior to September 1, 2024, that are within the jurisdiction of the business court as described in Section 25A.004 may be transferred to and heard by the business court on motion of a party and permission of the business court pursuant to rules of civil and judicial procedure to be adopted by the supreme court, which rules reflect due consideration of:

(1) priority for complex civil actions of longer duration that have proven difficult for a district court to resolve because of the other demands of its caseload;

(2) the capacity of the business court to accept such actions without impairing its efficiency and effectiveness in resolving actions commenced on or after September 1, 2024; and

(3) facilitation of the fair and efficient administration of justice.

SECTION 12. Section 659.012, Government Code, is amended by adding a new Subsection (g) to read as follows:

(g) In addition to the state salary provided under Subsection (a) or (b), a judge of a division of the business court is entitled to additional compensation from the state equal to the maximum amount a district judge may be paid as supplemental compensation by a county (including compensation for any extrajudicial services performed on behalf of the county) under

1 Section 659.012.

2 SECTION 13. The following sections of the Government Code
3 are repealed:

- 4 (1) 25A.003(n);
5 (2) 25A.007(b);
6 (3) 25A.009(b); and
7 (4) 25A.014(b).

8 SECTION 14. Section 21.010(a), Government Code, is amended
9 to read as follows:

10 (a) A justice or judge, as applicable, of the supreme court,
11 the court of criminal appeals, a court of appeals, a district court,
12 the business court, a county court, a county court at law, or a
13 statutory probate court may not, on the date the person takes office
14 as a justice or judge or while serving as a justice or judge, have a
15 significant interest in a business entity that owns, manages, or
16 operates:

17 (1) a community residential facility described by
18 Section 508.119;

19 (2) a correctional or rehabilitation facility subject
20 to Chapter 244, Local Government Code; or

21 (3) any other facility intended to accomplish a
22 purpose or provide a service described by Section 508.119(a) to a
23 person convicted of a misdemeanor or felony or found to have engaged
24 in delinquent conduct who is housed in the facility:

25 (A) while serving a sentence of confinement
26 following conviction of an offense or an adjudication of delinquent
27 conduct; or

1 (B) as a condition of community supervision,
2 probation, parole, or mandatory supervision.

3 SECTION 15. Section 22.110, Government Code, is amended by
4 adding subsection (b-1) to read as follows:

5 (b-1) Judges of the business court are exempt from
6 compliance with the judicial training and education requirements
7 set forth in Chapter 22, and rules issued thereunder, that are not
8 germane to the jurisdiction of the business court as set forth in
9 Subsections (b), (c), (d) and (e) of Section 25A.004, including,
10 without limitation, the training and education requirements of
11 Sections 22.012 and 22.110.

12 SECTION 16. Section 37.001(a), Government Code, is amended
13 to read as follows:

14 (a) This chapter applies to a court in this state created by
15 the Texas Constitution, by statute, or as authorized by statute
16 that is located in a county with a population of 25,000 or more,
17 except that this chapter does not apply to the business court.

18 SECTION 17. Section 39.001, Government Code, is amended to
19 read as follows:

20 Sec. 39.001. APPLICABILITY. This chapter applies to a
21 person elected to or holding any of the following judicial offices:

- 22 (1) chief justice or justice of the supreme court;
23 (2) presiding judge or judge of the court of criminal
24 appeals;
25 (3) chief justice or justice of a court of appeals;
26 (4) district judge, including a criminal district
27 judge; ~~and~~

(5) business court judge; and

(6) judge of a statutory county court.

SECTION 18. Section 71.011, Government Code, is amended to read as follows:

Sec. 71.011 NUMBER AND CLASSES OF MEMBERS. The Texas Judicial Council is an agency of the state composed of [~~16~~] 17 ex officio and six appointive members.

SECTION 19. Section 71.012, Government Code, is amended to read as follows:

Sec. 71.012. EX OFFICIO MEMBERS. The ex officio members are:

(1) the chief justice of the supreme court;

(2) the presiding judge of the court of criminal appeals;

(3) two members of the senate, appointed by the lieutenant governor;

(4) the chair of the House Judicial Affairs Committee;

(5) one member of the house of representatives, appointed by the speaker of the house;

(6) two justices of the courts of appeals designated by the chief justice of the supreme court;

(7) two district judges designated by the chief justice of the supreme court;

(8) two judges of county courts, statutory county, or statutory probate courts designated by the chief justice of the supreme court;

(9) two justices of the peace designated by the chief

1 justice of the supreme court; ~~and~~

2 (10) two municipal court judges designated by the
3 chief justice of the supreme court; and

4 (11) the administrative presiding judge of the
5 business court.

6 SECTION 20. Section 71.013, Government Code, is amended by
7 amending Subsection (b) and adding Subsection (g) to read as
8 follows:

9 (b) Except as provided by Subsections (a) and (g), all
10 members of the judiciary appointed to the council serve staggered
11 terms of four years with the term of one member from each judicial
12 group expiring on February 1 of each odd-numbered year.

13 (g) The administrative presiding judge of the business
14 court is an ex officio member of the council as long as he holds that
15 office.

16 SECTION 21. Section 74.003(b), Government Code, is amended
17 to read as follows:

18 (b) The chief justice of the supreme court may assign a
19 qualified former or retired justice or judge of the supreme court,
20 of the court of criminal appeals, or of a court of appeals to a court
21 of appeals for active service regardless of whether a vacancy
22 exists in the court to which the justice or judge is assigned. To be
23 eligible for assignment under this subsection, a former or retired
24 justice or judge must:

25 (1) have served as an active justice or judge for at
26 least 96 months in a district, statutory probate, statutory county,
27 or appellate court, or the business court, with at least 48 of those

1 months in an appellate court;

2 (2) not have been removed from office;

3 (3) certify under oath to the chief justice of the
4 supreme court, on a form prescribed by the chief justice, that:

5 (A) the justice or judge has never been publicly
6 reprimanded or censured by the State Commission on Judicial
7 Conduct; and

8 (B) the justice or judge:

9 (i) did not resign or retire from office
10 after the State Commission on Judicial Conduct notified the justice
11 or judge of the commencement of a full investigation into an
12 allegation or appearance of misconduct or disability of the justice
13 or judge as provided in Section 33.022 and before the final
14 disposition of that investigation; or

15 (ii) if the justice or judge did resign from
16 office under circumstances described by Subparagraph (i), the
17 justice or judge was not publicly reprimanded or censured as a
18 result of the investigation;

19 (4) annually demonstrate that the justice or judge has
20 completed in the past state fiscal year the educational
21 requirements for active appellate court justices or judges; and

22 (5) certify to the chief justice of the supreme court a
23 willingness not to appear and plead as an attorney in any court in
24 this state for a period of two years.

25 SECTION 22. Section 74.041(5), Government Code, is amended
26 to read as follows:

27 (5) "Former judge" means a person who has served as an

1 active judge in a district, statutory probate, statutory county, or
2 appellate court, or the business court, but who is not a retired
3 judge.

4 SECTION 23. Section 74.045(a), Government Code, is amended
5 to read as follows:

6 (a) A presiding judge must be at the time of appointment:

7 (1) a regularly elected or retired district judge;

8 (2) a serving or retired business court judge;

9 (3) a former judge with at least 12 years of service as
10 a district judge or business court judge; or

11 (4) a retired appellate judge with judicial experience
12 on a district court or the business court.

13 SECTION 24. Section 74.055(c), Government Code, is amended
14 to read as follows:

15 (c) To be eligible to be named on the list, a retired or
16 former judge must:

17 (1) have served as an active judge for at least 96
18 months in a district, statutory probate, statutory county, or
19 appellate court, or the business court;

20 (2) have developed substantial experience in the
21 judge's area of specialty;

22 (3) not have been removed from office;

23 (4) certify under oath to the presiding judge, on a
24 form prescribed by the state board of regional judges, that:

25 (A) the judge has never been publicly reprimanded
26 or censured by the State Commission on Judicial Conduct; and

27 (B) the judge:

1 (i) did not resign or retire from office
2 after the State Commission on Judicial Conduct notified the judge
3 of the commencement of a full investigation into an allegation or
4 appearance of misconduct or disability of the judge as provided in
5 Section 33.022 and before the final disposition of that
6 investigation; or

7 (ii) if the judge did resign from office
8 under circumstances described by Subparagraph (i), was not publicly
9 reprimanded or censured as a result of the investigation;

10 (5) annually demonstrate that the judge has completed
11 in the past state fiscal year the educational requirements for
12 active district, business, statutory probate, and statutory county
13 court judges; and

14 (6) certify to the presiding judge a willingness not
15 to appear and plead as an attorney in any court in this state for a
16 period of two years.

17 SECTION 25. Section 74.141, Government Code, is amended to
18 read as follows:

19 Sec. 74.141. DEFENSE OF JUDGES. The attorney general shall
20 defend a state district judge, a business court judge, a presiding
21 judge of an administrative region, the presiding judge of the
22 statutory probate courts, a visiting judge assigned to hear a
23 guardianship or probate matter by the presiding judge of the
24 statutory probate courts, or an active, retired, or former judge
25 assigned under this chapter in any action or suit in any court in
26 which the judge is a defendant because of the judge's office or
27 capacity as judge if the judge requests the attorney general's

1 assistance in the defense of the suit.

2 SECTION 26. Section 74.162, Government Code, is amended to
3 read as follows:

4 Sec. 74.162. TRANSFER OF CASES BY PANEL. Subject to Section
5 74.1625 and notwithstanding any other law, the judicial panel on
6 multidistrict litigation may transfer civil actions involving one
7 or more common questions of fact pending in the same or different
8 constitutional courts, county courts at law, probate courts,~~or~~
9 district courts or the business court to any district court or, if
10 the business court has jurisdiction to hear the action under
11 Subsection 25A.004(b), (d), (f) or (g), without regard to the
12 amount in controversy in any single action and without regard to
13 whether the county from which an action is transferred to the
14 business court is within an active business court division, to the
15 business court, for consolidated or coordinated pretrial
16 proceedings, including summary judgment or other dispositive
17 motions, but not for trial on the merits. A transfer may be made by
18 the judicial panel on multidistrict litigation on its determination
19 that the transfer will:

20 (1) be for the convenience of the parties and
21 witnesses; and

22 (2) promote the just and efficient conduct of the
23 actions.

24 SECTION 27. Section 411.171(4-b), Government Code, is
25 amended to read as follows:

26 (4-b) "State judge" means:

27 (A) the judge of an appellate court, a district

1 court, the business court, or a county court at law of this state;

2 (B) an associate judge appointed under Chapter
3 201, Family Code; or

4 (C) a justice of the peace.

5 SECTION 28. Section 11.101(e), Civil Practice & Remedies
6 Code, is amended to read as follows:

7 (e) A prefiling order entered under Subsection (a) by a
8 district or statutory county court or by the business court applies
9 to each court in this state.

10 SECTION 29. Section 15.003(c), Civil Practice & Remedies
11 Code, is amended to read as follows:

12 (c) An interlocutory appeal permitted by Subsection (b)
13 must be taken to the court of appeals district in which the trial
14 court is located under the procedures established for interlocutory
15 appeals, except that an interlocutory appeal from the business
16 court must be taken to the Fifteenth Court of Appeals. The appeal
17 may be taken by a party that is affected by the trial court's
18 determination under Subsection (a). The court of appeals shall:

19 (1) determine whether the trial court's order is
20 proper based on an independent determination from the record and
21 not under either an abuse of discretion or substantial evidence
22 standard; and

23 (2) render judgment not later than the 120th day after
24 the date the appeal is perfected.

25 SECTION 30. Section 19.003(a), Civil Practice & Remedies
26 Code, is amended to read as follows:

27 (a) To supply a record that has been lost, destroyed, or

removed:

(1) a person interested in an instrument or in a judgment, order, or decree of the district court may file an application with the district clerk of the county in which the record was lost or destroyed or from which the record was removed; ~~or~~

(2) a person interested in a judgment, order, or decree of a county court may file an application with the clerk of the court to which the record belonged; or

(3) a person interested in a judgment, order, or decree of the business court may file an application with the clerk of the business court.

SECTION 31. Section 20.001(a), Civil Practice & Remedies Code, is amended to read as follows:

(a) A deposition on written questions of a witness who is alleged to reside or to be in this state may be taken by:

(1) a clerk of a district court;

(2) a judge or clerk of a county court; ~~or~~

(3) a judge or clerk of the business court; or

(4) a notary public of this state.

SECTION 32. Section 30.014(a), Civil Practice & Remedies Code, is amended to read as follows:

(a) In a civil action, including a probate or guardianship proceeding, filed in a district court, county court, statutory county court, or statutory probate court, or the business court, each party or the party's attorney shall include in its initial pleading:

SECTION 33. Section 30.015(a), Civil Practice & Remedies Code, is amended to read as follows:

(a) In a civil action filed in a district court, county court, statutory county court, or statutory probate court, or the business court, each party or the party's attorney must provide the clerk of the court with written notice of the party's name and current residence or business address.

SECTION 34. Section 30.016(a), Civil Practice & Remedies Code, is amended to read as follows:

(a) In this section, "tertiary recusal motion" means a third or subsequent motion for recusal or disqualification filed against a district court, ~~or~~ statutory county court, or business court judge by the same party in a case.

SECTION 35. Section 30.017(a) and (c), Civil Practice & Remedies Code, are amended to read as follows:

(a) A claim against a district court, business court, statutory probate court, or statutory county court judge that is added to a case pending in the court to which the judge was elected or appointed:

(1) must be made under oath;

(2) may not be based solely on the rulings in the pending case but must plead specific facts supporting each element of the claim in addition to the rulings in the pending case; and

(3) is automatically severed from the case.

(c) The presiding judge of the administrative region, ~~or~~ the presiding judge of the statutory probate courts, or the administrative presiding judge of the business court shall assign

1 the severed claim to a different judge. The judge shall dismiss the
2 claim if the claim does not satisfy the requirements of Subsection
3 (a)(1) or (2).

4 SECTION 36. Section 51.014(a), Civil Practice & Remedies
5 Code, is amended to read as follows:

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

9 (1) appoints a receiver or trustee;

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

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

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

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

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

27 (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(1);

(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;

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

(16) 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) grants or denies a motion for summary judgment
filed by a contractor based on Section 97.002.

SECTION 37. Section 51.016, Civil Practice & Remedies Code,

is amended to read as follows:

Sec. 51.016. APPEAL ARISING UNDER FEDERAL ARBITRATION ACT. In a matter subject to the Federal Arbitration Act (9 U.S.C. Sections 1-16), a person may take an appeal or writ of error to the court of appeals from the judgment or interlocutory order of a district court, county court at law, or county court, or the business court, under the same circumstances that an appeal from a federal district court's order or decision would be permitted by 9 U.S.C. Section 16.

SECTION 38. Section 61.021, Civil Practice & Remedies Code, is amended to read as follows:

Sec. 61.021. WHO MAY ISSUE. The judge or clerk of a district court, the business court, or a county court, or a justice of the peace, may issue a writ of original attachment returnable to his court.

SECTION 39. Section 62.021, Civil Practice & Remedies Code, is amended to read as follows:

Sec. 62.021. WHO MAY ISSUE. A district court, business court, or county court judge or a justice of the peace may issue writs of sequestration returnable to his court.

SECTION 40. Section 63.002, Civil Practice & Remedies Code, is amended to read as follows:

Sec. 63.002. WHO MAY ISSUE. The clerk of a district court, the business court, or a county court, or a justice of the peace, may issue a writ of garnishment returnable to his court.

SECTION 41. Section 64.091(b), Civil Practice & Remedies Code, is amended to read as follows:

1 (b) In the following actions, a district court or the
2 business court may appoint a receiver for the mineral interest or
3 leasehold interest under a mineral lease owned by a nonresident or
4 absent defendant:

5 (1) an action that is brought by a person claiming or
6 owning an undivided mineral interest in land in this state or an
7 undivided leasehold interest under a mineral lease of land in this
8 state and that has one or more defendants who have, claim, or own an
9 undivided mineral interest in the same property; or

10 (2) an action that is brought by a person claiming or
11 owning an undivided leasehold interest under a mineral lease of
12 land in this state and that has one or more defendants who have,
13 claim, or own an undivided leasehold interest under a mineral lease
14 of the same property.

15 SECTION 42. Section 64.092, Civil Practice & Remedies Code,
16 is amended by amending Subsections (a) and (c) to read as follows:

17 (a) On the application of a person who has a vested,
18 contingent, or possible interest in land or an estate subject to a
19 contingent future interest, a district court of the county in which
20 all or part of the land is located, or a business court judge of an
21 operating division of the business court in which all or part of the
22 land is located, may appoint a receiver for the land or estate,
23 pending the occurrence of the contingency and the vesting of the
24 future interest, if:

25 (c) On the application of a person who has a vested,
26 contingent, or possible interest in land or an estate that is under
27 an oil, gas, or mineral lease and is subject to a contingent future

1 interest, a district court of the county in which all or part of the
2 land is located, or a business court judge of an operating division
3 of the business court in which all or part of the land is located,
4 may appoint a receiver for the contingent future interests, pending
5 the occurrence of the contingency and the vesting of the future
6 interest, if:

7 SECTION 43. Section 64.093(a), Civil Practice & Remedies
8 Code, is amended to read as follows:

9 (a) A district court, or the business court if the land
10 subject to a mineral interest is located partially or entirely
11 within a county that is within an operating division of the business
12 court, may appoint a receiver for the royalty interest owned by a
13 nonresident or absent defendant in an action that:

14 (1) is brought by a person claiming or owning an
15 undivided mineral interest in land in this state or an undivided
16 leasehold interest under a mineral lease of land in the state; and

17 (2) has one or more defendants who have, claim, or own
18 an undivided royalty interest in that property.

19 SECTION 44. Section 65.022, Civil Practice & Remedies Code,
20 is amended by adding Subsection (e) to read as follows:

21 (e) A business court judge may grant a writ returnable to
22 another business court judge if that judge cannot be reached by the
23 ordinary and available means of travel and communication in
24 sufficient time to put into effect the purpose of the writ sought.
25 In seeking a writ under this subsection, the applicant or attorney
26 for the applicant shall attach to the application an affidavit that
27 fully states the facts of the inaccessibility and the efforts made

1 to reach and communicate with the other business court judge. The
2 business court judge to whom application is made shall refuse to
3 hear the application unless he determines that the applicant made
4 fair and reasonable efforts to reach and communicate with the other
5 business court judge. The injunction may be dissolved on a showing
6 that the applicant did not first make reasonable efforts to procure
7 a hearing on the application before the other business court judge.

8 SECTION 45. Subsection 65.023(a), Civil Practice & Remedies
9 Code, is amended to read as follows:

10 (a) Except as provided by Subsection (b), a writ of
11 injunction against a party who is a resident of this state shall be
12 tried in a district or county court in the county in which the party
13 is domiciled, or, in the case of the business court, the writ of
14 injunction shall be tried before a business court judge whose
15 division includes the county in which the party is domiciled. If
16 the writ is granted against more than one party, it may be tried in
17 the proper court of ~~the~~ a county in which any enjoined party
18 ~~[either party]~~ is domiciled, or, in the case of the business court,
19 the writ of injunction shall be tried before a business court judge
20 whose division includes a county in which any enjoined party is
21 domiciled.

22 SECTION 46. Section 65.045(c), Civil Practice & Remedies
23 Code, is amended to read as follows:

24 (c) The district courts and statutory county courts in a
25 county may not adopt local rules in conflict with this subchapter.
26 The business court may not adopt local rules in conflict with this
27 subchapter.

SECTION 47. Section 151.001, Civil Practice & Remedies Code, is amended to read as follows:

Sec. 151.001. REFERRAL BY AGREEMENT. On agreement of the parties, in civil or family law matters pending in a district court, statutory probate court, or statutory county court, or in the business court, the judge in whose court the case is pending may order referral of the case as provided by this chapter and shall stay proceedings in the judge's court pending the outcome of the trial. Any or all of the issues in the cases, whether an issue of fact or law, may be referred.

SECTION 48. Section 151.003, Civil Practice & Remedies Code, is amended to read as follows:

Sec. 151.003. QUALIFICATIONS OF JUDGE. The special judge must be a retired or former district court, business court, statutory county court, statutory probate court, or appellate court judge who:

(1) has served as a judge for at least four years in a district court, statutory county court, statutory probate court, or appellate court, or the business court, or some combination of the foregoing;

(2) has developed substantial experience in the judge's area of specialty;

(3) has not been removed from office or resigned while under investigation for discipline or removal; and

(4) annually demonstrates completion in the past calendar year of at least five days of continuing legal education in courses approved by the state bar or the supreme court.

SECTION 49. Section 151.011, Civil Practice & Remedies Code, is amended to read as follows:

Sec. 151.011. SPECIAL JUDGE'S VERDICT. The special judge's verdict must comply with the requirements for a verdict by the court. The verdict stands as a verdict of the referring judge's court. In the case of a trial referred from the business court, the special judge must provide a written opinion under the circumstances in which the business court judge would be required to provide a written opinion. Unless otherwise specified in an order of referral, the special judge shall submit the verdict not later than the 60th day after the day the trial adjourns.

SECTION 50. Section 151.012, Civil Practice & Remedies Code, is amended to read as follows:

Sec. 151.012. NEW TRIAL. If the special judge does not submit the verdict, and an opinion, if required in the case of a referral from the business court, within the time period provided by Section 151.011, the court may grant a new trial if:

- (1) a party files a motion requesting the new trial;
- (2) notice is given to all parties stating the time and place that a hearing will be held on the motion; and
- (3) the hearing is held.

SECTION 51. Section 151.013, Civil Practice & Remedies Code, is amended to read as follows:

Sec. 151.013. RIGHT TO APPEAL. The right to appeal is preserved. An appeal is from the order of the referring judge's court as provided by applicable law and the Texas Rules of Civil Procedure and the Texas Rules of Appellate Procedure.

SECTION 52. Subsection 154.001(1), Civil Practice & Remedies Code, is amended to read as follows:

(1) "Court" includes an appellate court, district court, the business court, constitutional county court, statutory county court, family law court, probate court, municipal court, or justice of the peace court.

SECTION 53. Section 171.001, Civil Practice & Remedies Code, is amended by adding subsection (c) to read as follows:

(c) References to the business court in this chapter presume, and the authority of the business court to take actions as provided in this chapter requires, that a claim included in the controversy arbitrated is within the jurisdiction of the business court described in Subsections 25A.004(b), (c), or (d), Government Code.

SECTION 54. Section 171.086, Civil Practice & Remedies Code, is amended by amending Subsections (a) and (b) to read as follows:

(a) Before arbitration proceedings begin, in support of arbitration a party may file an application for a court order, including an order to:

(1) invoke the jurisdiction of the court over the adverse party and to effect that jurisdiction by service of process on the party before arbitration proceedings begin;

(2) invoke the jurisdiction of the court over an ancillary proceeding in rem, including by attachment, garnishment, or sequestration, in the manner and subject to the conditions under which the proceeding may be instituted and conducted ancillary to a

1 civil action in a district court, or, if the order is sought from
2 the business court, in the manner and subject to the conditions
3 under which the proceeding may be instituted and conducted
4 ancillary to an action in the business court;

5 (3) restrain or enjoin:

6 (A) the destruction of all or an essential part
7 of the subject matter of the controversy; or

8 (B) the destruction or alteration of books,
9 records, documents, or other evidence needed for the arbitration;

10 (4) obtain from the court in its discretion an order
11 for a deposition for discovery, perpetuation of testimony, or
12 evidence needed before the arbitration proceedings begin;

13 (5) appoint one or more arbitrators so that an
14 arbitration under the agreement to arbitrate may proceed; or

15 (6) obtain other relief, which the court can grant in
16 its discretion, needed to permit the arbitration to be conducted in
17 an orderly manner and to prevent improper interference or delay of
18 the arbitration.

19 (b) During the period an arbitration is pending before the
20 arbitrators or at or after the conclusion of the arbitration, a
21 party may file an application for a court order, including an order:

22 (1) that was referred to or that would serve a purpose
23 referred to in Subsection (a);

24 (2) to require compliance by an adverse party or any
25 witness with an order made under this chapter by the arbitrators
26 during the arbitration;

27 (3) to require the issuance and service under court

1 order, rather than under the arbitrators' order, of a subpoena,
2 notice, or other court process:

3 (A) in support of the arbitration; or

4 (B) in an ancillary proceeding in rem, including
5 by attachment, garnishment, or sequestration, in the manner of and
6 subject to the conditions under which the proceeding may be
7 conducted ancillary to a civil action in a district court or, if the
8 order is sought from the business court, in the manner and subject
9 to the conditions under which the proceeding may be conducted
10 ancillary to an action in the business court;

11 (4) to require security for the satisfaction of a
12 court judgment that may be later entered under an award;

13 (5) to support the enforcement of a court order
14 entered under this chapter; or

15 (6) to obtain relief under Section [171.087](#), [171.088](#),
16 [171.089](#), or [171.091](#).

17 SECTION 55. Section [171.093](#), Civil Practice & Remedies
18 Code, is amended to read as follows:

19 Sec. 171.093. HEARING; NOTICE. The court shall hear each
20 initial and subsequent application under this subchapter in the
21 manner and with the notice required by law or court rule for making
22 and hearing a motion filed in a pending civil action in a district
23 court, or, for an application to the business court, in the manner
24 and with the notice required by law or court rule for making and
25 hearing a motion filed in a pending civil action in a civil action
26 in the business court.

27 SECTION 56. Section [171.094](#)(b), Civil Practice & Remedies

Code, is amended to read as follows:

(b) To the extent applicable, the process and service and the return of service must be in the form and include the substance required for process and service on a defendant in a civil action in a district court, or, for an application to the business court, in the form and including the substance required for process and service on a defendant in an action in the business court.

SECTION 57. Section 171.095(a), Civil Practice & Remedies Code, is amended to read as follows:

(a) After an initial application has been made, notice to an adverse party for each subsequent application shall be made in the same manner as is required for a motion filed in a pending civil action in a district court, or, for an application to the business court, in the same manner as is required for a motion filed in a pending action in the business court. This subsection applies only if:

(1) jurisdiction over the adverse party has been established by service of process on the party or in rem for the initial application; and

(2) the subsequent application relates to:

(A) the same arbitration or a prospective arbitration under the same agreement to arbitrate; and

(B) the same controversy or controversies.

SECTION 58. Section 171.096, Civil Practice & Remedies Code, is amended by amending Subsection (a), (b), and (c) to read as follows:

(a) Except as otherwise provided by this section, a party

1 must file the initial application:

2 (1) in the county in which an adverse party resides or
3 has a place of business, or, in the case of a filing in the business
4 court, with the clerk of the business court, designating a county in
5 which an adverse party resides or has a place of business that is
6 within an operating division of the business court; or

7 (2) if an adverse party does not have a residence or
8 place of business in this state, in any county, or, in the case of a
9 filing in the business court, with the clerk of the business court,
10 designating any county that is within an operating division of the
11 business court.

12 (b) If the agreement to arbitrate provides that the hearing
13 before the arbitrators is to be held in a county in this state, a
14 party must file the initial application with the clerk of the court
15 of that county, or, in the case of a filing in the business court,
16 with the clerk of the business court, designating therein the
17 county named in the agreement to arbitrate that is within an
18 operating division of the business court.

19 (c) If a hearing before the arbitrators has been held, a
20 party must file the initial application with the clerk of the court
21 of the county in which the hearing was held, or, in the case of a
22 filing in the business court, with the clerk of the business court,
23 designating the county in which the hearing was held that is within
24 an operating division of the business court.

25 SECTION 59. Subsection 171.097, Civil Practice & Remedies
26 Code, is amended by amending Subsections (a) and (b) to read as
27 follows:

1 (a) On application of a party adverse to the party who filed
2 the initial application, a court that has jurisdiction but that is
3 located in a county, or if the initial application was filed in the
4 business court, a judge sitting in an operating division of the
5 business court, other than as described by Section 171.096 shall
6 transfer the application to a court of a county, or an operating
7 division of the business court containing such a county, described
8 by that section.

9 (b) The court shall transfer the application by an order
10 comparable to an order sustaining a plea of privilege to be sued in
11 a civil action in a district court of a county other than the county
12 in which an action is filed, or, in the case of a proceeding in the
13 business court, by an order comparable to an order sustaining a plea
14 of privilege to be sued in a civil action in a division of the
15 business court other than the division in which an action is filed.

16 SECTION 60. Section 171.098(b), Civil Practice & Remedies
17 Code, is amended to read as follows:

18 (b) The appeal shall be taken in the manner and to the same
19 extent as an appeal from an order or judgment in a civil action,
20 except that the appeal from an order or judgment of the business
21 court shall be taken to the Fifteenth Court of Appeals.

22 SECTION 61. Section 172.001, Civil Practice & Remedies
23 Code, is amended by adding Subsection (e) to read as follows:

24 (e) References to the business court in this chapter
25 presume, and the authority of the business court to take actions as
26 provided in this chapter requires, that a claim included in the
27 controversy arbitrated is within the jurisdiction of the business

1 court described in Subsections 25A.004(b), (c), or (d), Government
2 Code.

3 SECTION 62. Section 172.054, Civil Practice & Remedies
4 Code, is amended by amending Subsections (a), (b), and (d) to read
5 as follows:

6 (a) On request of a party, the district court of the county
7 in which the place of arbitration is located, or the business court
8 if the county in which the place of arbitration is located is within
9 an operating division of the business court, shall appoint each
10 arbitrator if:

11 (1) an agreement is not made under Section 172.053(a)
12 in an arbitration with a sole arbitrator and the parties fail to
13 agree on the arbitrator; or

14 (2) the appointment procedure in Section 172.053(b)
15 applies and:

16 (A) a party fails to appoint an arbitrator not
17 later than the 30th day after the date of receipt of a request to do
18 so from the other party; or

19 (B) the two appointed arbitrators fail to agree
20 on the third arbitrator not later than the 30th day after the date
21 of their appointment.

22 (b) On request of a party, the district court of the county
23 in which the place of arbitration is located, or the business court
24 if the county in which the place of arbitration is located is within
25 an operating division of the business court, may take necessary
26 measures if under an appointment procedure agreed to by each party:

27 (1) a party fails to act as required under that

1 procedure;

2 (2) the parties or two appointed arbitrators fail to
3 reach an agreement expected of them under that procedure; or

4 (3) a third party, including an institution, fails to
5 perform a function assigned to the party under that procedure.

6 (d) A decision of the ~~[district]~~ court under this section is
7 final and not subject to appeal.

8 SECTION 63. Section 172.055, Civil Practice & Remedies
9 Code, is amended to read as follows:

10 Sec. 172.055. FACTORS CONSIDERED. In appointing an
11 arbitrator, the ~~[district]~~ court shall consider:

12 (1) each qualification required of the arbitrator by
13 the arbitration agreement;

14 (2) any consideration making more likely the
15 appointment of an independent and impartial arbitrator; and

16 (3) in the case of a sole or third arbitrator, the
17 advisability of appointing an arbitrator of a nationality other
18 than that of any party.

19 SECTION 64. Subsection 172.060(a), Civil Practice &
20 Remedies Code, is amended to read as follows:

21 (a) If a challenge under Sections 172.059(b) and (c) is
22 unsuccessful, the challenging party, not later than the 30th day
23 after the date the party receives notice of the decision rejecting
24 the challenge, may request the district court of the county in which
25 the place of arbitration is located, or the business court if the
26 county in which the place of arbitration is located is within an
27 operating division of the business court, to decide the challenge.

SECTION 65. Subsection 172.061(b), Civil Practice & Remedies Code, is amended to read as follows:

(b) If there is a controversy concerning the termination of the arbitrator's mandate under Subsection (a), a party may request the district court of the county in which the place of arbitration is located, or the business court if the county in which the place of arbitration is located is within an operating division of the business court, to decide the termination. The decision of the court is not subject to appeal.

SECTION 66. Subsection 172.082(f), Civil Practice & Remedies Code, is amended to read as follows:

(f) If the arbitration tribunal rules as a preliminary question that it has jurisdiction, a party waives objection to the ruling unless the party, not later than the 30th day after the date the party receives notice of that ruling, requests the district court of the county in which the place of arbitration is located, or the business court if the county in which the place of arbitration is located is within an operating division of the business court, to decide the matter. The decision of the court is not subject to appeal.

SECTION 67. Section 172.172, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 172.172. ASSISTANCE IN TAKING EVIDENCE. The arbitration tribunal or a party with the approval of the tribunal may request assistance in taking evidence from a district court, or the business court, if the county in which the place of arbitration is located is within an operating division of the business court,

1 ~~[in taking evidence,~~] and the court may provide the assistance
2 according to its rules on taking evidence. The tribunal or a party
3 shall select the ~~[district]~~ court in the manner provided by Section
4 171.096.

5 SECTION 68. Subsections 172.173 (a) and (b), Civil Practice
6 and Remedies Code, are amended to read as follows:

7 (a) If the parties to two or more arbitration agreements
8 agree, in the respective arbitration agreements or otherwise, to
9 consolidate the arbitrations arising out of the agreements, a
10 district court, or the business court if the place of arbitration is
11 located in a county within an active business court division, on
12 application by a party with the consent of each other party to the
13 agreements, may:

14 (1) order the arbitrations consolidated on terms the
15 court considers just and necessary;

16 (2) if all the parties cannot agree on a tribunal for
17 the consolidated arbitration, appoint an arbitration tribunal as
18 provided by Section 172.055; and

19 (3) if all the parties cannot agree on any other matter
20 necessary to conduct the consolidated arbitration, make any other
21 order the court considers necessary.

22 (b) The arbitration tribunal or the party shall select the
23 ~~[district]~~ court in the manner provided by Section 171.096.

24 SECTION 69. Subsection 172.175(a), Civil Practice &
25 Remedies Code, is amended to read as follows:

26 (a) A party to an arbitration agreement may request an
27 interim measure of protection from a district court, ~~or from the~~

~~business court if the county in which the place of arbitration is located is within an operating division of the business court, before or during an arbitration.~~

SECTION 70. (a) Except as provided by Subsection (b), this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.

(b) Sections 8 and 14(3) of this Act take effect pursuant to Subsection (a) only if the voters, in an election held on November 4, 2025, approve a constitutional amendment providing that judges appointed to the business court may serve terms of office as provided in Section 8 of this Act. If the voters do not approve such a constitutional amendment, then Sections 8 and 14(3) do not take effect and are null and void.

SECTION 71. With the exception of Section 12 of this Act, the changes in law made by this Act apply to civil actions commenced on or after September 1, 2024, including actions pending in the business court on the effective date of this Act.

SECTION 72. Section 6(b), Chapter 380 (H.B. 19), Acts of the 88th Legislature, Regular Session, 2023, is amended to read as follows:

(b) On or ~~[before September 1, 2026, but not before July 1, 2026]~~ after January 1, 2026, the governor shall appoint one judge~~s~~ to each of the Second, Fifth, Sixth, Seventh, Ninth, and Tenth Business Court Divisions, and on or after September 1, 2026,

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1 the governor shall appoint one additional judge to each of the First
2 and Eleventh Business Court Divisions, as required by Section
3 [25A.009](#), Government Code [~~7, as added by this Act~~].