

CHAPTER 1042

H.B. No. 2935

AN ACT

relating to a legal action involving the exercise of certain constitutional rights.

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

SECTION 1. Section 27.004, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 27.004. HEARING. (a) A hearing on a motion under Section 27.003 must be set not later than the 60th [30th] day after the date of service of the motion unless the docket conditions of the court require a later hearing, upon a showing of good cause, or by agreement of the parties, but in no event shall the hearing occur more than 90 days after service of the motion under Section 27.003, except as provided by Subsection (c).

(b) In the event that the court cannot hold a hearing in the time required by Subsection (a), the court may take judicial notice that the court's docket conditions required a hearing at a later date, but in no event shall the hearing occur more than 90 days after service of the motion under Section 27.003, except as provided by Subsection (c).

(c) If the court allows discovery under Section 27.006(b), the court may extend the hearing date to allow discovery under that subsection, but in no event shall the hearing occur more than 120 days after the service of the motion under Section 27.003.

SECTION 2. Section 27.005, Civil Practice and Remedies

1 Code, is amended by adding Subsection (d) to read as follows:

2 (d) Notwithstanding the provisions of Subsection (c), the
3 court shall dismiss a legal action against the moving party if the
4 moving party establishes by a preponderance of the evidence each
5 essential element of a valid defense to the nonmovant's claim.

6 SECTION 3. Section 27.010, Civil Practice and Remedies
7 Code, is amended by amending Subsection (b) and adding Subsection
8 (d) to read as follows:

9 (b) This chapter does not apply to a legal action brought
10 against a person primarily engaged in the business of selling or
11 leasing goods or services, if the statement or conduct arises out of
12 the sale or lease of goods, services, or an insurance product,
13 insurance services, or a commercial transaction in which the
14 intended audience is an actual or potential buyer or customer.

15 (d) This chapter does not apply to a legal action brought
16 under the Insurance Code or arising out of an insurance contract.

17 SECTION 4. Sections 51.014(a) and (b), Civil Practice and
18 Remedies Code, are amended to read as follows:

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

- 21 (1) appoints a receiver or trustee;
- 22 (2) overrules a motion to vacate an order that
23 appoints a receiver or trustee;
- 24 (3) certifies or refuses to certify a class in a suit
25 brought under Rule 42 of the Texas Rules of Civil Procedure;
- 26 (4) grants or refuses a temporary injunction or grants
27 or overrules a motion to dissolve a temporary injunction as

1 provided by Chapter 65;

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

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

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

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

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

20 (10) grants relief sought by a motion under Section
21 74.351(1); [~~or~~]

22 (11) denies a motion to dismiss filed under Section
23 90.007; or

24 (12) denies a motion to dismiss filed under Section
25 27.003.

26 (b) An interlocutory appeal under Subsection (a), other
27 than an appeal under Subsection (a)(4), stays the commencement of a

1 trial in the trial court pending resolution of the appeal. An
2 interlocutory appeal under Subsection (a)(3), (5), [~~ex~~] (8), or
3 (12) also stays all other proceedings in the trial court pending
4 resolution of that appeal.

5 SECTION 5. Section 27.008(c), Civil Practice and Remedies
6 Code, is repealed.

7 SECTION 6. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2013.

David Dewhurst

President of the Senate

Joe Straus

Speaker of the House

I certify that H.B. No. 2935 was passed by the House on May 2, 2013, by the following vote: Yeas 145, Nays 2, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2935 on May 24, 2013, by the following vote: Yeas 135, Nays 3, 2 present, not voting.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 2935 was passed by the Senate, with amendments, on May 22, 2013, by the following vote: Yeas 31, Nays 0.

Aetsy Jaw

Secretary of the Senate

APPROVED: 14 JUNE '13

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10PM O'CLOCK

JUN 14 2013

[Signature]
Secretary of State