

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) A claimant may bring an action under this section only after the claimant has exhausted the claimant's administrative remedies with respect to the regulatory action against the claimant.

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

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

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

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

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

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 813 passed the Senate on April 12, 2017, by the following vote: Yeas 28, Nays 3; May 25, 2017, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2017, House granted request of the Senate; May 27, 2017, Senate adopted Conference Committee Report by the following vote: Yeas 27,

Nays 4.

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Secretary of the Senate

I hereby certify that S.B. No. 813 passed the House, with amendments, on May 21, 2017, by the following vote: Yeas 131, Nays 7, two present not voting; May 26, 2017, House granted request of the Senate for appointment of Conference Committee; May 27, 2017, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 0, one present not voting.

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Chief Clerk of the House

Approved:

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Date

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Governor