

BILL ANALYSIS

Senate Research Center

H.B. 900
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Nominations
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Engrossed

DIGEST

Currently, a defendant may file a bill of review in a court to directly attack a default judgment. The bill of review is an equitable principal. Accordingly, case law sets forth the guidelines governing a bill of review. A defendant must generally file a sworn pleading that cites the grounds for review. Those grounds must allege that the defendant has a meritorious defense to the original action, but that the defendant did not have an opportunity to present that defense. A failure to provide the defense must be due to certain failures on the part of the plaintiff. However, a defendant who alleges defective service of process or notice of a hearing does not have to show a meritorious defense. H.B. 900 would require the defendant to show certain defenses in a bill of review by a civil court.

PURPOSE

As proposed, H.B. 900 amends regulations regarding a bill of review by a civil court.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 3, Civil Practice and Remedies Code, by adding Chapter 67, as follows:

CHAPTER 67. BILL OF REVIEW

Sec. 67.001. APPLICATION OF EQUITY PRINCIPLES. Provides that the principles governing a court of equity apply to a bill of review except as otherwise provided by this chapter.

Sec. 67.002. AVAILABILITY. Authorizes a court to grant a bill of review of a court order or judgment in a civil case if the applicant for the bill of review shows certain conditions exist.

Sec. 67.003. LIMITATIONS PERIOD. Requires a person to apply for a bill of review of a court order or judgment before the fourth anniversary of the date of the order of judgment.

Sec. 67.004. VENUE. Requires an application for a bill of review of a court order or judgment to be filed in the court that rendered the order or judgment, or a successor of that court.

Sec. 67.005. CONTENTS OF APPLICATION. Requires an application for a bill of review, by verified affidavit, to state that the applicant did not receive proper or legal notice in relation to the court order or judgment that is the subject of the application for a bill of review, or state a ground under Section 67.002 relied on by the applicant to justify a bill of review, other than the ground under Subdivision (1).

Sec. 67.006. NECESSARY PARTY. Provides that any party affected by a court order or judgment that is the subject of an application for a bill of review is a necessary party to the action for the bill of review. Authorizes a party described by Subsection (a) as a necessary party to intervene in the action at any time.

Sec. 67.007. PRETRIAL HEARING. Authorizes the court to provide for a pretrial hearing on matters relating to the action, on the motion of any party to an action for a bill of review, or on its own initiative.

SECTION 2. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 3. Emergency clause.