

## **BILL ANALYSIS**

Senate Research Center  
84R1790 CAE-F

H.B. 230  
By: Farrar (Ellis)  
State Affairs  
5/19/2015  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

This bill clarifies which entities may recover attorney's fees under Section 38.001 (Recovery of Attorney's Fees) of the Civil Practice and Remedies Code. That statute sets forth the types of legal claims for which a person may recover attorney's fees. As currently written, the statute enables attorney's fees to be recovered from "an individual or a corporation." A recent 14th Court of Appeals decision held that Section 38.001 is inapplicable to partnerships, likely meaning that the statute is also inapplicable to limited partnerships and limited liability companies. This bill seeks to clarify that attorney's fees may be recovered from any type of legal entity, thereby ensuring consistency for businesses, consumers, and governmental entities that contract with varied types of business entities. This clarification will also prevent the need for those parties that contract with non-corporation entities to charge more to offset the risk that they will not be able to recover attorney's fees in case they prevail in litigation over a breach of contract. The bill also makes clear that its changes do not affect a litigant's ability to collect attorney's fees from a governmental entity.

H.B. 230 amends current law relating to recovery of attorney's fees in certain civil cases.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 38.001, Civil Practice and Remedies Code, as follows:

Sec. 38.001. RECOVERY OF ATTORNEY'S FEES. (a) Creates this subsection from existing text. Authorizes a person, except as provided by Subsection (b), to recover reasonable attorney's fees from an individual, corporation, or other legal entity, in addition to the amount of a valid claim and costs, if the claim is for the services of conditions as set forth in this subsection. Makes nonsubstantive changes.

(b) Provides that Subsection (a) does not authorize the recovery of attorney's fees from the state, an agency or institution of the state, or a political subdivision of the state. Provides that this section does not affect any other statute regarding the recovery of attorney's fees from the state, an agency or institution of the state, or a political subdivision of the state.

SECTION 2. Provides that the change in law made by this Act applies only to an award of attorney's fees in an action commenced on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.