

BILL ANALYSIS

Senate Research Center

H.B. 1578
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 38.001, Civil Practice and Remedies Code, permits recovery of attorney's fees from "an individual or corporation" in certain types of claims.

Alta Mesa Holdings, LP v. Ives, 488 S.W.3d 438, 452-53 (Tex. App.—Houston [14th Dist.] 2016, pet. denied) construed the term "corporation" narrowly in this context, concluding that an LLC could not be held liable for attorney's fees under Section 38.001, Civil Practice & Remedies Code. In doing so, the case foreclosed recovery of attorney's fees from LLCs, partnerships, and other entities found liable for the claims listed in Section 38.001, Civil Practice and Remedies Code.

H.B. 1578 addresses this by amending Section 38.001, Civil Practice and Remedies Code, to replace "corporation" with "organization," as defined by Section 1.002, Business Organizations Code, for purposes of who may be required to pay attorney's fees. Under Section 1.002, Business Organizations Code, "organization" means a corporation, limited or general partnership, limited liability company, business trust, real estate investment trust, joint venture, joint stock company, cooperative, association, bank, insurance company, credit union, savings and loan association, or other organization, regardless of whether the organization is for-profit, nonprofit, domestic, or foreign. This ensures that attorney's fees may be recovered from all such entities—not just "corporations"—that are found liable for a claims enumerated in Section 38.001, Civil Practice and Remedies Code.

H.B. 1578 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) Defines "organization."

(b) Creates this subsection from existing text. Authorizes a person to recover reasonable attorney's fees from an individual or organization, rather than an individual or corporation, in addition to the amount of a valid claim and costs, if the claim is for certain damages.

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. Provides that an award of attorney's fees in an action commenced before the effective date of this Act is governed by the law applicable to the award immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. Effective date: September 1, 2021.