

By: Sheets

H.B. No. 1692

A BILL TO BE ENTITLED

AN ACT

relating to the doctrine of forum non conveniens.

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

SECTION 1. Sections 71.051(e) and (h), Civil Practice and Remedies Code, are amended to read as follows:

(e) The court may not stay or dismiss a plaintiff's claim under Subsection (b) if the plaintiff is a legal resident of this state or a derivative claimant of a legal resident of this state.

The determination of whether a claim may be stayed or dismissed under Subsection (b) shall be made with respect to each plaintiff without regard to whether the claim of any other plaintiff may be stayed or dismissed under Subsection (b) and without regard to a plaintiff's country of citizenship or national origin. If an

action involves both plaintiffs who are legal residents of this state and plaintiffs who are not, the court shall consider the factors provided by Subsection (b) and determine whether to deny the motion or to ~~[may not]~~ stay or dismiss the claim of any

plaintiff who is not a ~~[action under Subsection (b) if the plaintiffs who are]~~ legal resident ~~[residents]~~ of this state ~~[are properly joined in the action and the action arose out of a single~~

~~occurrence. The court shall dismiss a claim under Subsection (b) if the court finds by a preponderance of the evidence that a party was joined solely for the purpose of obtaining or maintaining~~

~~jurisdiction in this state and the party's claim would be more~~

properly heard in a forum outside this state].

(h) For purposes of Subsection (e) ~~[In this section]:~~

(1) "Derivative claimant" means a person whose damages were caused by personal injury to or the wrongful death of another ~~["Legal resident" means an individual who intends the specified political subdivision to be his permanent residence and who intends to return to the specified political subdivision despite temporary residence elsewhere or despite temporary absences, without regard to the individual's country of citizenship or national origin. The term does not include an individual who adopts a residence in the specified political subdivision in bad faith for purposes of avoiding the application of this section].~~

(2) "Plaintiff" means a party seeking recovery of damages for personal injury or wrongful death. ~~[In a cause of action in which a party seeks recovery of damages for personal injury to or the wrongful death of another person, "plaintiff" includes both that other person and the party seeking such recovery.]~~ The term does not include:

(A) a counterclaimant, cross-claimant, or third-party plaintiff or a person who is assigned a cause of action for personal injury; or

(B) a representative, administrator, guardian, or next friend who is not otherwise a derivative claimant of a legal resident of this state ~~[, or who accepts an appointment as a personal representative in a wrongful death action, in bad faith for purposes of affecting in any way the application of this section].~~

1           SECTION 2. The change in law made by this Act applies only  
2 to an action commenced on or after the effective date of this Act.  
3 An action commenced before the effective date of this Act is  
4 governed by the law applicable to the action immediately before the  
5 effective date of this Act, and that law is continued in effect for  
6 that purpose.

7           SECTION 3. 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, 2015.