

- SUBJECT:** Allowing for recovery of attorney's fees from other legal entities
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield
- 0 nays
- WITNESSES:** For — Jared Caplan; Peter Ruggero; (*Registered, but did not testify:* Jon Fisher, Associated Builders and Contractors of Texas; Bill Kelly, City of Houston Mayor's Office; Michael White, Texas Construction Association)
- Against — None
- BACKGROUND:** Civil Practice and Remedies Code, sec. 38.001 allows a person to recover reasonable attorney's fees from an individual or corporation, in addition to the amount of a valid claim and costs, if the claim is for:
- rendered services;
 - performed labor;
 - furnished material;
 - freight or express overcharge;
 - lost or damaged freight or express;
 - killed or injured stock;
 - a sworn account; or
 - an oral or written contract.
- DIGEST:** HB 744 would allow a person to recover reasonable attorney's fees from other legal entities, in addition to individuals and corporations, for claims specified under Civil Practice and Remedies Code, sec. 38.001. It would not authorize the recovery of attorney's fees from state or local governments and would not affect any other statute regarding recovery of attorney's fees from state or local governments.

The bill would take effect September 1, 2017, and would apply only to awards of attorney's fees in actions commenced on or after that date.

**SUPPORTERS
SAY:**

HB 744 would clarify that attorney's fees could be recovered from all forms of business organizations, not just corporations. While courts sometimes have allowed for the recovery of attorney's fees against various kinds of legal entities, including partnerships and limited liability companies, recent court cases have found that the language in current law limits those liable for attorney's fees to individuals and corporations and excludes other legal entities. There is no policy justification for this distinction between business structures, and HB 744 would provide needed clarity to ensure the law is applied consistently and according to its original intent.

HB 744 would specify that it did not authorize recovery of attorney's fees from state and local government entities, which also is consistent with the original legislative intent for this section. Recovery of attorney's fees from government entities is addressed in other sections of code.

**OPPONENTS
SAY:**

HB 744 would exclude government entities, which should have the same responsibilities as any other contracting person in Texas. It also could expand the prevalence of lawsuits.