

BELL NUNNALLY'S KAREN HART AND ALEX RISINGER AUTHOR ABA ARTICLE ON RECENT CHANGES TO TEXAS ATTORNEY FEES STATUTE

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Bell Nunnally Partner Karen L. Hart and Associate Alexandria M. Risinger authored the American Bar Association (ABA) Real Estate, Condemnation, and Trust Litigation Committee "Practice Points" article "Big Loopholes in Texas Attorney Fees Recovery Law Closed in Much-Anticipated Legislative Update."

In the piece Hart and Risinger break down recently chaptered Texas House Bill 1578, which amended Chapter 38 of the Texas Civil Practice and Remedies Code to extend attorney fees to entities other than corporations. For suits filed after Sept. 1, 2021, "Chapter 38 was thus amended to provide, 'a person may recover reasonable attorney's fees from an individual or organization other than a quasi-governmental entity authorized to perform a function by state law, a religious organization, a charitable organization or a charitable trust.'" Prior to this amendment, recovery of attorneys' fees under Chapter 38 did not extend to other organizations beyond corporations, precluding an award of statutory attorneys' fees as against limited liability companies and partnerships, for example. With this change, for suits file after Sept. 1, 2021, now other organizations, such as LLC and partnerships, may be subject to an attorneys' fee claim and award under Chapter 38.

Following a quick overview of changes, Hart and Risinger caution attorneys, "While the amendments to Chapter 38 solve some glaring loopholes to recovering attorney fees in Texas, the new Chapter 38 does not resolve all potential attorney fees problems for practitioners. The new Chapter 38 still will not provide relief to defendants incurring significant attorney fees, because the statute only applies to prevailing plaintiffs.... Further, because the recent changes to Chapter 38 only apply to cases filed after September 1, 2021, many cases, filed on or prior to September 1, 2021, remain pending where the old attorney fees loopholes remain."

To read the full article, please click [here](#).

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