



# **GOV'T CODE CHAPTER 1205 (EXPEDITED DECLARATORY JUDGMENTS ACT): SUMMARY AND NOTABLE PROVISIONS**

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## **WHAT IS A CHAPTER 1205 SUIT?**

- **AN EXPEDITED DECLARATORY JUDGEMENT SUIT (TRIAL SET ON THE FIRST MONDAY AFTER 20 DAYS OF DATE OF PUBLIC NOTICE);**
- **ADJUDICATING CERTAIN MATTERS RELATED TO LEGALITY AND VALIDITY OF PUBLIC SECURITIES (E.G, GOVERNMENT BONDS) AND CERTAIN ACTIONS RELATED TO SAME;**
- **CITATION BY PUBLICATION, PROVIDING NOTICE TO A BROAD CLASS OF PARTIES;**

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# WHAT IS A CHAPTER 1205 SUIT?

- FUNCTIONS AS BOTH AN *IN REM* AND CLASS ACTION PROCEEDING BINDING AS TO ALL OF THOSE PARTIES;
- MAY REQUIRE POSTING OF SECURITY BY A PARTY OPPOSING THE RELIEF SOUGHT;
- FINAL JUDGEMENT AS TO ALL MATTERS RAISED/COULD HAVE BEEN RAISED AGAINST ALL CLASSES OF PARTIES, AND INJUNCTION AGAINST BRINGING ANY FURTHER SUIT CONTESTING SUBJECT MATTER OF JUDGEMENT;
- WITH LIMITED, ACCELERATED APPEALS ALLOWED.

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# SCOPE OF 1205 ACTION

## SUBCHAPTER B. DECLARATORY JUDGMENT ACTION

Sec. 1205.021. AUTHORITY TO BRING ACTION. An issuer may bring an action under this chapter to obtain a declaratory judgment as to:

- (1) the authority of the issuer to issue the public securities;
- (2) the legality and validity of each public security authorization relating to the public securities, including if appropriate:
  - (A) the election at which the public securities were authorized;
  - (B) the organization or boundaries of the issuer;
  - (C) the imposition of an assessment, a tax, or a tax lien;
  - (D) the execution or proposed execution of a contract;
  - (E) the imposition of a rate, fee, charge, or toll or the enforcement of a remedy relating to the imposition of that rate, fee, charge, or toll; and
  - (F) the pledge or encumbrance of a tax, revenue, receipts, or property to secure the public securities;
- (3) the legality and validity of each expenditure or proposed expenditure of money relating to the public securities; and
- (4) the legality and validity of the public securities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

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# SCOPE OF 1205 ACTION

## SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1205.001. DEFINITIONS. In this chapter:

(1) "Issuer" means an agency, authority, board, body politic, commission, department, district, instrumentality, municipality or other political subdivision, or public corporation of this state. The term includes a state-supported institution of higher education and any other type of political or governmental entity of this state.

(2) "Public security" means an interest-bearing obligation, including a bond, bond anticipation note, certificate, note, warrant, or other evidence of indebtedness, regardless of whether the obligation is:

- (A) general or special;
- (B) negotiable;
- (C) in bearer or registered form;
- (D) in temporary or permanent form;
- (E) issued with interest coupons; or
- (F) to be repaid from taxes, revenue, both taxes and revenue, or in another manner.

(3) "Public security authorization" means an action or proceeding by an issuer taken, made, or proposed to be taken or made in connection with or affecting a public security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

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# CH. 1205: ONE STATUTE TO RULE THEM ALL

Sec. 1205.002. CONFLICT OR INCONSISTENCY WITH OTHER LAWS. (a) To the extent of a conflict or inconsistency between this chapter and another law, this chapter controls.

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