



The Expedited Declaratory Judgments Act
Texas Government Code Chapter 1205:
A Powerful Tool for Adjudicating Public Disputes

EDJA SUITS: WHAT ARE THEY, AND WHY ARE THEY SO POWERFUL?

“With great power comes great responsibility.”¹

“Nothing in excess.”²

Chapter 1205 of the Texas Government Code, commonly referred to as the “Expedited Declaratory Judgments Act,” is a powerful, limited-purpose statute that provides for the adjudication of certain questions related to public securities (such as bonds). While there are limits on the reach and power of this statutory mechanism, this paper largely leaves the discussion of those limits to my colleague, Mike Powell. Rather, this paper focuses on the specific elements of an EDJA suit that make such actions broad, far-reaching, and powerful (although not uniquely so, as other states have similar statutes). A detailed discussion of an EDJA suit, from inception to final judgment and appeal, follows further below, and provides a picture of how an EDJA matter will move through a court. But immediately below, I have flagged the specific provisions of the EDJA that make it one of the more powerful statutory claims available under Texas law.

- The definition of the subject matter (“public security” and “public security authorization”) in section 1205.001(2) and (3): these definitions set the table for the scope of the applicability of the statute.
- The primacy of Chapter 1205 over all other laws in section 1205.002: this section establishes that in the event of a conflict between Chapter 1205 and any other law, Chapter 1205 governs.
- The scope of Chapter 1205 actions described in section 1205.021, providing that an issuer may seek declaratory judgment as to the

¹ Source: Spiderman. Well, that’s the modern pop-culture source. Historical sources for quite similar statements include the Comité de Salut Public (Committee of Public Safety) during the 1793 French National Convention and British MP William Lamb in 1817.

² Source: The Oracle at Delphi. Also, many wise bartenders.

legality and validity of numerous matters relating to public securities (tying back to definitions in section 1205.001(2) and (3)).

- Chapter 1205 suits are both proceedings in rem and class actions binding on a broadly defined class of persons, per section 1205.023.
- Chapter 1205 suits may be brought regardless of the pendency of any other proceeding relating to the subject matter, per section 1205.025.
- Notice of Chapter 1205 suits is given by publication, the effect of which is to make each person of the classes defined by section 1205.041(a) (taxpayers, residents, property owners, or anyone who has any right, title, and interest to be affected by a public security or public security authorization) a party to the action as if named and personally served, per section 1205.044.
- If there already exists a parallel proceeding, the Chapter 1205 court can enjoin such parallel proceeding and/or order it joined with the Chapter 1205 action, and such interlocutory order cannot be appealed, per section 1205.061.
- The case should be expedited; trial shall proceed to judgment with “the least possible delay,” per section 1205.065. No legislative continuances are allowed. § 1205.069.
- Subject matter of appeals is limited to 1) appeals of orders issued with respect to the posting of security in connection with a Chapter 1205 case, and 2) the final judgment, per section 1205.068. That same provision provides that all such appeals are accelerated, and may be taken directly to the Supreme Court.
- A party opposing a Chapter 1205 action may be required to post significant security to protect against the harm caused by any delay in obtaining judgment, and failure to post such security can result in dismissal of the party. § 1205.101–104.
- The effect of a final Chapter 1205 judgment is significant, as it is binding to each matter that was raised or could have been raised, and is binding upon the issuer, the Attorney General, the Comptroller, and all parties to the action (whether named and served individually or whether deemed served by publication per section 1205.044)). § 1205.151. Additionally, the judgment serves

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