

NEW TEXAS BUSINESS COURT

DARYL B. ROBERTSON, *Dallas*
Hunton Andrews Kurth LLP

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By: Daryl B. Robertson, Copyright Reserved 2023¹

I. Introduction

House Bill No. 19 (as amended, “*HB 19*”) has been passed by the 2023 Texas Legislature in its Regular Session. *HB 19* was originally authored by Representatives Murr, Leach, Landgraf, Meyer and Lujan and then co-authored by 72 other House members. *HB 19* was sponsored in the Texas Senate by Senator Bryan Hughes. *HB 19* was signed into law by Governor Abbott on June 9, 2023. The business courts bill was one of the Governor’s top legislative priorities for the 2023 Legislature. *HB 19* will become effective on September 1, 2023.² *HB 19* adds a new Chapter 25A to the Texas Government Code that establishes a business court for the State of Texas.³ This article is a summary only of *HB 19* and should not be relied on as a complete description of that bill.

II. Creation and Geographic Divisions

HB 19 creates a statutory court under § 1, Article V of the Texas Constitution and calls the new court a business court.⁴ Although *HB 19* itself is effective on September 1, 2023, the business court will commence operations after September 1, 2024.⁵ However, a provision in *HB 19* specifies that the business court is not created unless the Texas Legislature makes a specific appropriation of money for that purpose.⁶ I have been advised that the funds for the business court were appropriated by the Texas Legislature during the 2023 Regular Session.

New Chapter 25A specifies that the judicial district of the business court is composed of all counties in Texas. However, the business court is composed of 11 geographic divisions. Five of these divisions have no subsequent conditions to their creation. These are the First Business Court Division, Third Business Court Division, Fourth Business Court Division, Eighth Business Court Division and Eleventh Business Court Division. The other six Business Court Divisions will be abolished on September 1, 2026, unless reauthorized by the 2025 Texas Legislature and funded through additional legislative appropriations at that time.⁷

The Business Court Divisions are defined to match their correspondingly numbered Administrative Judicial Regions, as defined in Section 72.042 of the Texas Government Code.⁸ The First Administrative Judicial Region is composed of the counties of Collin, Dallas, Ellis, Fannin, Grayson, Kaufman, and Rockwall. The Third Administrative Judicial Region is composed of the counties of Austin, Bell, Blanco, Bosque, Burnet, Caldwell, Colorado, Comal, Comanche, Coryell, Falls, Fayette, Gonzales, Guadalupe, Hamilton, Hays, Hill, Lampasas, Lavaca, Llano, McLennan, Milam, Navarro, Robertson, San Saba, Travis, and Williamson. The Fourth

¹ The author is a partner in the Dallas, Texas office of Hunton Andrews Kurth LLP.

² *HB 19* §9.

³ *HB 19* §1, adding Gov. Code Chapter 25A.

⁴ *HB 19* §1, adding Gov. Code §25A.002.

⁵ *HB 19* §5.

⁶ *HB 19* §7(a).

⁷ *HB 19* §1, adding Gov. Code §25A.003.

⁸ *Id.*, adding Gov. Code §25A.003(c) - (m).

Administrative Judicial Region is composed of the counties of Aransas, Atascosa, Bee, Bexar, Calhoun, DeWitt, Dimmit, Frio, Goliad, Jackson, Karnes, LaSalle, Live Oak, Maverick, McMullen, Refugio, San Patricio, Victoria, Webb, Wilson, Zapata, and Zavala. The Eighth Administrative Judicial Region is composed of the counties of Archer, Clay, Cooke, Denton, Eastland, Erath, Hood, Jack, Johnson, Montague, Palo Pinto, Parker, Somervell, Stephens, Tarrant, Wichita, Wise, and Young. The Eleventh Administrative Judicial Region is composed of the counties of Brazoria, Fort Bend, Galveston, Harris, Matagorda, and Wharton.

III. Powers of Business Court

The business court has the powers provided to Texas district courts by Chapter 24 of the Government Code, including the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, and supersedeas and to grant any relief that may be granted by a district court.⁹ A business court judge has all the powers, duties, immunities and privileges of a district judge.¹⁰

IV. Jurisdiction of Business Court

The business court has civil jurisdiction concurrent with district courts in two different sets of specified actions -- one set in which the amount in controversy exceeds \$5,000,000 and the second set in which the amount in controversy exceeds \$10,000,000. In each case, the minimum amount in controversy excludes interest, statutory damages, exemplary damages, penalties, attorneys' fees and court costs. The specified \$5 million-minimum actions include a (1) a derivative proceeding, (2) an action regarding the governance, governing documents or internal affairs of an organization, (3) an action in which a claim under a state or federal securities or trade regulation law is asserted against (a) an organization, (b) a controlling person or managerial official of an organization for an act or omission by the organization or by the person in the person's capacity as such, (c) an underwriter of securities issued by the organization or (d) the auditor of an organization, (4) an action by an organization, or an owner of an organization, if the action is brought against an owner, controlling person or managerial official of the organization and alleges an act or omission by that person in the person's capacity as such, (5) an action alleging that an owner, controlling person or managerial official breached a duty owed to a organization or an owner of an organization, including breach of a duty of loyalty or good faith, (6) an action seeking to hold an owner or governing person of an organization liable for an obligation of the organization, other than on account of a written contract signed by that person in a capacity other than as an owner or governing person, and (7) an action arising out of the Texas Business Organizations Code.¹¹ However, the \$5,000,000 minimum for the amount in controversy does not apply if a party to the action is a publicly traded company.¹² For that purpose, "publicly traded company" means an entity whose voting equity securities are listed on a national securities exchange registered with the United States Securities and Exchange Commission under Section 6,

⁹ *Id.*, adding Gov. Code §25A.004(a).

¹⁰ *Id.*, adding Gov. Code §25A.005.

¹¹ *Id.*, adding Gov. Code §25A.004(b).

¹² *Id.*, adding Gov. Code §25A.004(c).

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