

CIVIL PRACTICE AND REMEDIES CODE
TITLE 2. TRIAL, JUDGMENT, AND APPEAL
SUBTITLE C. JUDGMENTS
CHAPTER 38. ATTORNEY'S FEES

Sec. 38.001. RECOVERY OF ATTORNEY'S FEES. (a) In this section, "organization" has the meaning assigned by Section [1.002](#), Business Organizations Code.

(b) 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, in addition to the amount of a valid claim and costs, if the claim is for:

- (1) rendered services;
- (2) performed labor;
- (3) furnished material;
- (4) freight or express overcharges;
- (5) lost or damaged freight or express;
- (6) killed or injured stock;
- (7) a sworn account; or
- (8) an oral or written contract.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 665 (H.B. [1578](#)), Sec. 1, eff. September 1, 2021.

Sec. 38.0015. RECOVERY OF ATTORNEY'S FEES AS COMPENSATORY DAMAGES. (a) A person may recover reasonable attorney's fees from an individual, corporation, or other entity from which recovery is permitted under Section [38.001](#) as compensatory damages for breach of a construction contract as defined by Section [130.001](#).

(b) This section may not be construed to create or imply a private cause of action or independent basis to recover attorney's fees.

Added by Acts 2021, 87th Leg., R.S., Ch. 1015 (H.B. [2416](#)), Sec. 1, eff. September 1, 2021.

Sec. 38.002. PROCEDURE FOR RECOVERY OF ATTORNEY'S FEES. To recover attorney's fees under this chapter:

- (1) the claimant must be represented by an attorney;
- (2) the claimant must present the claim to the opposing party or to a duly authorized agent of the opposing party; and
- (3) payment for the just amount owed must not have been tendered before the expiration of the 30th day after the claim is presented.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 38.003. PRESUMPTION. It is presumed that the usual and customary attorney's fees for a claim of the type described in Section 38.001 are reasonable. The presumption may be rebutted.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 38.004. JUDICIAL NOTICE. The court may take judicial notice of the usual and customary attorney's fees and of the contents of the case file without receiving further evidence in:

- (1) a proceeding before the court; or
- (2) a jury case in which the amount of attorney's fees is submitted to the court by agreement.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 38.005. LIBERAL CONSTRUCTION. This chapter shall be liberally construed to promote its underlying purposes.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 38.006. EXCEPTIONS. This chapter does not apply to a contract issued by an insurer that is subject to the provisions of:

- (1) Title 11, Insurance Code;
- (2) Chapter 541, Insurance Code;
- (3) the Unfair Claim Settlement Practices Act (Subchapter A, Chapter 542, Insurance Code); or
- (4) Subchapter B, Chapter 542, Insurance Code.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 11.105, eff.
September 1, 2005.