

CIVIL PRACTICE AND REMEDIES CODE

TITLE 3. EXTRAORDINARY REMEDIES

CHAPTER 65. INJUNCTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 65.001. APPLICATION OF EQUITY PRINCIPLES. The principles governing courts of equity govern injunction proceedings if not in conflict with this chapter or other law. Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 65.002. RESTRAINING ORDER OR INJUNCTION AFFECTING CUSTOMER OF FINANCIAL INSTITUTION. Service or delivery of a restraining order or injunction affecting property held by a financial institution in the name of or on behalf of a customer of the financial institution is governed by Section [59.008](#), Finance Code.

Added by Acts 1999, 76th Leg., ch. 344, Sec. 7.006, eff. Sept. 1, 1999.

SUBCHAPTER B. AVAILABILITY OF REMEDY

Sec. 65.011. GROUNDS GENERALLY. A writ of injunction may be granted if:

(1) the applicant is entitled to the relief demanded and all or part of the relief requires the restraint of some act prejudicial to the applicant;

(2) a party performs or is about to perform or is procuring or allowing the performance of an act relating to the subject of pending litigation, in violation of the rights of the applicant, and the act would tend to render the judgment in that litigation ineffectual;

(3) the applicant is entitled to a writ of injunction under the principles of equity and the statutes of this state relating to injunctions;

(4) a cloud would be placed on the title of real property being sold under an execution against a party having no

interest in the real property subject to execution at the time of sale, irrespective of any remedy at law; or

(5) irreparable injury to real or personal property is threatened, irrespective of any remedy at law.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 3.17, eff. Sept. 1, 1987.

Sec. 65.012. OPERATION OF WELL OR MINE. (a) A court may issue an injunction or temporary restraining order prohibiting subsurface drilling or mining operations only if an adjacent landowner filing an application claims that a wrongful act caused injury to his surface or improvements or loss of or injury to his minerals and if the party against whom the injunction is sought is unable to respond in damages for the resulting injuries.

(b) To secure the payment of any injuries that may be sustained by the complainant as a result of subsurface drilling or mining operations, the party against whom an injunction is sought under this section shall enter into a good and sufficient bond in an amount fixed by the court hearing the application.

(c) The court may appoint a trustee or receiver instead of requiring a bond if the court considers it necessary to protect the interests involved in litigation concerning an injunction under this section. The trustee or receiver has the powers prescribed by the court and shall take charge of and hold the minerals produced from the drilling or mining operation or the proceeds from the disposition of those minerals, subject to the final disposition of the litigation.

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

Sec. 65.013. STAY OF JUDGMENT OR PROCEEDING. An injunction may not be granted to stay a judgment or proceeding at law except to stay as much of the recovery or cause of action as the complainant in his petition shows himself equitably entitled to be relieved against and as much as will cover the costs.

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

Sec. 65.014. LIMITATIONS ON STAY OF EXECUTION OF JUDGMENT.

(a) Except as provided by Subsection (b), an injunction to stay execution of a valid judgment may not be granted more than one year after the date on which the judgment was rendered unless:

(1) the application for the injunction has been delayed because of fraud or false promises of the plaintiff in the judgment practiced or made at the time of or after rendition of the judgment; or

(2) an equitable matter or defense arises after the rendition of the judgment.

(b) If the applicant for an injunction to stay execution of a judgment was absent from the state when the judgment was rendered and was unable to apply for the writ within one year after the date of rendition, the injunction may be granted at any time within two years after that date.

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

Sec. 65.015. CLOSING OF STREETS. An injunction may not be granted to stay or prevent the governing body of an incorporated city from vacating, abandoning, or closing a street or alley except on the suit of a person:

(1) who is the owner or lessee of real property abutting the part of the street or alley vacated, abandoned, or closed; and

(2) whose damages have neither been ascertained and paid in a condemnation suit by the city nor released.

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

Sec. 65.016. VIOLATION OF REVENUE LAW. At the instance of the county or district attorney or the attorney general, a court by injunction may prevent, prohibit, or restrain the violation of any revenue law of this state.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 4.03(a), eff. Aug. 28, 1989.

Sec. 65.017. CIGARETTE SELLER, DISTRIBUTOR, OR MANUFACTURER. In addition to any other remedy provided by law, a person may bring an action in good faith for appropriate injunctive

relief if the person sells, distributes, or manufactures cigarettes and sustains a direct economic or commercial injury as a result of a violation of:

(1) Section [48.015](#), Penal Code; or

(2) Section [154.0415](#), Tax Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.12, eff. April 1, 2009.

SUBCHAPTER C. JURISDICTION OF PROCEEDINGS; VENUE

Sec. 65.021. JURISDICTION OF PROCEEDING. (a) The judge of a district or county court in term or vacation shall hear and determine applications for writs of injunction.

(b) This section does not limit injunction jurisdiction granted by law to other courts.

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

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. [40](#), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 65.022. RETURN OF WRIT; HEARING BY NONRESIDENT JUDGE.

(a) Except as provided by this section, a writ of injunction is returnable only to the court granting the writ.

(b) A district judge may grant a writ returnable to a court other than his own if the resident judge refuses to act or cannot hear and act on the application because of his absence, sickness, inability, inaccessibility, or disqualification. Those facts must be fully set out in the application or in an affidavit accompanying the application. A judge who refuses to act shall note that refusal and the reasons for refusal on the writ. A district judge may not grant the writ if the application has been acted on by another district judge.

(c) A district judge may grant a writ returnable to a court other than his own to stay execution or restrain foreclosure, sale under a deed of trust, trespass, removal of property, or an act injurious to or impairing riparian or easement rights if satisfactory proof is made to the nonresident judge that it is

impracticable for the applicant to reach the resident judge and procure the action of the resident judge in time to put into effect the purposes of the application.

(d) A district judge may grant a writ returnable to a court other than his own if the resident judge cannot be reached by the ordinary and available means of travel and communication in sufficient time to put into effect the purpose of the writ sought. In seeking a writ under this subsection, the applicant or attorney for the applicant shall attach to the application an affidavit that fully states the facts of the inaccessibility and the efforts made to reach and communicate with the resident judge. The judge to whom application is made shall refuse to hear the application unless he determines that the applicant made fair and reasonable efforts to reach and communicate with the resident judge. The injunction may be dissolved on a showing that the applicant did not first make reasonable efforts to procure a hearing on the application before the resident judge.

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

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. [40](#), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 65.023. PLACE FOR TRIAL. (a) Except as provided by Subsection (b), a writ of injunction against a party who is a resident of this state shall be tried in a district or county court in the county in which the party is domiciled. If the writ is granted against more than one party, it may be tried in the proper court of the county in which either party is domiciled.

(b) A writ of injunction granted to stay proceedings in a suit or execution on a judgment must be tried in the court in which the suit is pending or the judgment was rendered.

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

SUBCHAPTER D. INJUNCTION OBTAINED FOR PURPOSES OF DELAYING COLLECTION OF MONEY

Sec. 65.031. DISSOLUTION; AWARD OF DAMAGES. If on final

hearing a court dissolves in whole or in part an injunction enjoining the collection of money and the injunction was obtained only for delay, the court may assess damages in an amount equal to 10 percent of the amount released by dissolution of the injunction, exclusive of costs.

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

SUBCHAPTER E. APPLICANTS BOND FOR TEMPORARY RESTRAINING ORDER OR TEMPORARY INJUNCTION

Sec. 65.041. BOND NOT REQUIRED FOR ISSUANCE OF TEMPORARY RESTRAINING ORDER FOR CERTAIN INDIGENT APPLICANTS. A court may not require an applicant for a temporary restraining order to execute a bond to the adverse party before the order may issue if:

(1) the applicant submits an affidavit that meets the requirements of Section 65.043 to the court; and

(2) the court finds that the order is intended to restrain the adverse party from foreclosing on the applicant's residential homestead.

Added by Acts 1989, 71st Leg., ch. 391, Sec. 1, eff. Aug. 28, 1989.

Sec. 65.042. BOND NOT REQUIRED FOR ISSUANCE OF TEMPORARY INJUNCTION FOR CERTAIN INDIGENT APPLICANTS. (a) A court may not require an applicant for a temporary injunction to execute a bond to the adverse party before the injunction may issue if:

(1) the applicant submits an affidavit that meets the requirements of Section 65.043 to the court; and

(2) the court finds that the injunction is intended to enjoin the adverse party from foreclosing on the applicant's residential homestead.

(b) If the affidavit submitted under Subsection (a)(1) is contested under Section 65.044, the court may not issue a temporary injunction unless the court finds that the applicant is financially unable to execute the bond.

Added by Acts 1989, 71st Leg., ch. 391, Sec. 1, eff. Aug. 28, 1989.

Sec. 65.043. AFFIDAVIT. (a) The affidavit must contain

complete information relating to each and every person liable for the indebtedness secured by or with an ownership interest in the residential homestead concerning the following matters:

- (1) identity;
- (2) income, including income from employment, dividends, interest, and any other source other than from a government entitlement;
- (3) spouse's income, if known to the applicant;
- (4) description and estimated value of real and personal property, other than the applicant's homestead;
- (5) cash and checking account;
- (6) debts and monthly expenses;
- (7) dependents; and
- (8) any transfer to any person of money or other property with a value in excess of \$1,000 made within one year of the affidavit without fair consideration.

(b) The affidavit must state: "I am not financially able to post a bond to cover any judgment against me in this case. All financial information that I provided to the lender was true and complete and contained no false statements or material omissions at the time it was provided to the lender. Upon oath and under penalty of perjury, the statements made in this affidavit are true."

(c) In the event the applicant is married, both spouses must execute the affidavit.

(d) The affidavit must be verified.

Added by Acts 1989, 71st Leg., ch. 391, Sec. 1, eff. Aug. 28, 1989.

Sec. 65.044. CONTEST OF AFFIDAVIT. (a) A party may not contest an affidavit filed by an applicant for a temporary restraining order as provided by Section [65.041](#).

(b) A party may contest an affidavit filed by an applicant for a temporary injunction as provided by Section [65.042](#):

- (1) after service of a temporary restraining order in the case; or
- (2) if a temporary restraining order was not applied for or issued, after service of notice of the hearing on the application for the temporary injunction.

(c) A party contests an affidavit by filing a written motion and giving notice to all parties of the motion in accordance with Rule 21a of the Texas Rules of Civil Procedure.

(d) The court shall hear the contest at the hearing on the application for a temporary injunction and determine whether the applicant is financially able to execute a bond against the adverse party as required by the Texas Rules of Civil Procedure. In making its determination, the court may not consider:

(1) any income from a government entitlement that the applicant receives; or

(2) the value of the applicant's residential homestead.

(e) The court may order the applicant to post and file with the clerk a bond as required by the Texas Rules of Civil Procedure only if the court determines that the applicant is financially able to execute the bond.

(f) An attorney who represents an applicant and who provides legal services without charge to the applicant and without a contractual agreement for payment contingent on any event may file an affidavit with the court describing the financial nature of the representation.

Added by Acts 1989, 71st Leg., ch. 391, Sec. 1, eff. Aug. 28, 1989.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. [40](#), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 65.045. CONFLICT WITH TEXAS RULES OF CIVIL PROCEDURE.

(a) To the extent that this subchapter conflicts with the Texas Rules of Civil Procedure, this subchapter controls.

(b) Notwithstanding Section [22.004](#), Government Code, the supreme court may not amend or adopt rules in conflict with this subchapter.

(c) The district courts and statutory county courts in a county may not adopt local rules in conflict with this subchapter.

Added by Acts 1989, 71st Leg., ch. 391, Sec. 1, eff. Aug. 28, 1989.