
DIGEST

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Jay Morris

HB No. 472

Abstract: Provides relative to class action certification procedures and burden of proof in establishing satisfaction of certification prerequisites.

Present law requires that five prerequisites be satisfied to maintain an action as a class action. Requires numerosity of the class, commonality of law or facts, typicality of the claims or defenses, adequate protection of the interests of the class, and ascertainability of the class.

Proposed law retains present law except it provides that the prerequisite regarding ascertainability shall not be satisfied if the court has to inquire in to each member's cause of action to determine whether they are members of the class.

Present law provides procedures for certifying an action as a class action.

Proposed law retains present law and adds that the proponent of the class has the burden of proof to establish that all prerequisites have been satisfied to maintain a class action.

Present law provides the court with discretion to make certain procedural orders pertaining to the class.

Proposed law prohibits the court from ordering a trial on an issue that would require proof that is individual to a member of the class when the outcome of the trial would have an effect on the entire class.

(Amends C.C.P. Arts. 591(A)(5) and 592(A)(3)(b)-(d) and (E)(5); Adds C.C.P. Art. 592(A)(3)(e))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Deleted proposed law change to the prerequisite of commonality that would require common questions of law and fact.