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 DIGEST
 

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SB 84 Reengrossed

2024 Regular Session

Seabaugh

Present law (C.C.P. Art. 970) provides at any time more than 20 days before the time specified for the trial of the matter, without any admission of liability, any party may serve upon an adverse party an offer of judgment for the purpose of settling all of the claims between them. The offer of judgment shall be in writing and state that it is made pursuant to present law, specify the total amount of money of the settlement offer, and specify whether that amount is inclusive or exclusive of costs, interest, attorney fees, and any other amount which may be awarded pursuant to statute or rule. Unless accepted, an offer of judgment shall remain confidential between the offeror and offeree. If the adverse party, within 10 days after service, serves written notice that the offer is accepted, either party may move for judgment on the offer. The court shall grant such judgment on the motion of either party.

Proposed law changes present law to provide that a party may serve upon an adverse party an offer of judgment after an opportunity for adequate discovery, but not less than 20 days before the time specified for trial.

Present law provides that if the final judgment obtained by the plaintiff-offeree is at least 25% less than the amount of the offer of judgment made by the defendant-offeror or if the final judgment obtained against the defendant-offeree is at least 25% greater than the amount of the offer of judgment made by the plaintiff-offeror, the offeree must pay the offeror's costs, exclusive of attorney fees, incurred after the offer was made, as fixed by the court.

Proposed law provides that if the final judgment obtained by the plaintiff-offeree is at least 25% less than the amount of the offer of judgment made by the defendant-offeror or if the final judgment obtained against the defendant-offeree is at least 25% greater than the amount of the offer of judgment made by the plaintiff-offeror, or if the final judgment is in favor of the defendant-offeror, the offeree must pay the offeror's costs, exclusive of attorney fees, incurred after the offer was made, as fixed by the court.

Present law provides that the fact that an offer is made but not accepted does not preclude a subsequent offer or a counter offer. When the liability of one party to another has been determined by verdict, order, or judgment, but the amount or extent of the damages remains to be determined by future proceedings, either party may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than 30 days before the start of hearings to determine the amount or extent of damages.

Proposed law retains present law.

Effective August 1, 2024.

(Amends C.C.P. Art. 970(A), (C), and (D))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Changes "any plaintiff" and "any defendant" to "any party".
2. Adds that if the final judgment is in favor of the defendant, the offeree must pay the offeror's costs incurred after the offer was made.

3. Removes the award of attorney fees, if the final judgement is in favor of the defendant.

Senate Floor Amendments to engrossed bill

1. Makes technical changes.
2. Changes "defendant" to "defendant-offeror".
3. Clarifies that the offeree must pay the offeror's costs, exclusive of attorney fees.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the reengrossed bill:

1. Change present law to provide that a party may serve upon an adverse party an offer of judgment after an opportunity for adequate discovery, but not less than 20 days before the time specified for trial.
2. Make technical changes.