

HB 2863 -- CLAIMS FOR RELIEF

SPONSOR: Parker

Currently, when a trust instrument containing a no-contest clause becomes irrevocable, an interested party can file a petition, either as a separate judicial proceeding or with other claims for relief in a single judicial proceeding, for an interlocutory determination whether a particular motion, petition, or other claim for relief would trigger the no-contest clause or a forfeiture. This bill removes the provisional aspect of the determination and the trigger of a forfeiture, allowing an interested party to seek a final determination as to whether a particular claim for relief would trigger the application of the no-contest clause. An order or judgment will relate to all actions taken by all parties in the lawsuit under the rules of civil procedure and this Section.

The bill adds to the circumstances under which a no-contest clause is not enforceable against a person, including when an interested person participates in a lawsuit but does not assert an affirmative claim for relief and when a no-contest clause seeks to cause a forfeiture against a beneficiary challenging a trust term that would otherwise be prohibited under trusts and estates laws.