

Alert | Litigation



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Texas Business Court Issues First Opinion, Addresses Removal of Cases

The passage of Texas House Bill (HB) 19, which creates a new system of specialized business courts in Texas to handle certain business disputes, has prompted questions about whether older cases, i.e., those commenced before Sept. 1, 2024, can be removed to the newly created Texas Business Court.

On Oct. 30, 2024, the Texas Business Court, presided over by Judge Whitehill, issued its first decision and written opinion, finding in *Energy Transfer et al. v. Culberson Midstream LLC et al.* that the case could not be removed to the Texas Business Court because it was commenced prior to Sept. 1, 2024. The court cited the language of HB 19, Act of May 25, 2023, 88th Leg., R.S., ch. 380, §§ 8, 2023 Tex. Sess. Law Serv. 919, 929: SECTION 8: “The changes in law made by this Act apply to civil actions commenced on or after September 1, 2024.”

This decision clarifies a perceived inconsistency between HB 19, which clearly states that the changes in law are not retroactive, and new Chapter 25A of the Texas Government Code, which is silent on the issue. This inconsistency led some to wonder if cases filed before the Texas Business Courts were formed could still be removed to those courts. This new decision makes clear that they cannot. For cases pending before Sept. 1, 2025, however, creative strategies may still be available that could lead to older cases being removed to the Texas Business Court.

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