

BILL ANALYSIS

Senate Research Center

H.B. 1471
By: Hartnett (Harris)
Jurisprudence
4/28/2003
Engrossed

DIGEST AND PURPOSE

Current law specifies that a trustee may be removed under certain conditions in accordance with the terms of the trust instrument or by a court. Issues have arisen regarding the failure of trustees to make an accounting as required by law or by the terms of the trust. A beneficiary may demand a written statement of accounts, and current law gives a trustee a reasonable time to comply.

H.B. 1471 allows a court to remove a trustee for failure to make the required accounting; specifies the time by which a trustee must deliver financial statements; and allows a beneficiary to collect attorney's fees and court costs in certain circumstances.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 113.082(a), Property Code, to authorize a trustee to be removed in accordance with the terms of the trust instrument or, on the petition of an interested person and after hearing, a court to, in its discretion, remove a trustee and deny part or all of the trustee's compensation if certain conditions exist, including that the trustee fails to make an accounting that is required by law or by the terms of the trust.

SECTION 2. Amends Section 113.151(a), Property Code, to authorize any beneficiary of the trust, if the trustee fails or refuses to deliver the statement on or before the 90th day after the date the trustee receives the demand or after a longer period ordered by a court, rather than within a reasonable time after the demand is made, to file suit to compel the trustee to deliver the statement to all beneficiaries of the trust. Authorizes the court, if a beneficiary is successful in the suit to compel a statement under this section, to, in its discretion, award all or part of the costs of court and all of the suing beneficiary's reasonable and necessary attorney's fees and costs against the trustee in the trustee's individual capacity or in the trustee's capacity as trustee.

SECTION 3. Effective date: September 1, 2003. Makes application of this Act prospective.