

## **BILL ANALYSIS**

C.S.H.B. 1471  
By: Hartnett  
Judicial Affairs  
Committee Report (Substituted)

### **BACKGROUND 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. What constitutes “reasonable” has led to disputes.

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**

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 1471 amends the Property Code to allow a court to remove a trustee or deny all or part of a trustee’s compensation if the trustee fails to make an accounting that is required by law or by the terms of the trust.

The bill also requires a trustee to deliver a written statement of accounts to a trust’s beneficiaries on or before the 60th day after the date the trustee receives the demand or after a longer period ordered by a court.

The bill also provides that if a beneficiary is successful in a suit to compel a statement of accounts, the court may award court costs and reasonable and necessary attorney’s fees against the trustee in the trustee’s individual capacity, rather than in the trustee’s capacity as trustee.

### **EFFECTIVE DATE**

September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute adds the words “in its discretion” to the original’s language providing that a court may remove a trustee or deny all or part of a trustee’s compensation under certain circumstances.

The substitute requires a trustee to deliver a written statement of accounts within “the 90th day” of a demand versus the original’s “60th day.”

The substitute adds the words “in its discretion” to the original’s language providing that a court may award

court costs and attorney's fees to a beneficiary when the beneficiary is successful in a suit to compel a statement.

The substitute also provides that this award may be "all or part" of the costs of court versus "all" in the original. The substitute also provides that costs and attorney's fees assessed against a trustee may be against the trustee in the trustee's individual capacity "or in the trustee's capacity as trustee." The original assessed these costs and fees against the trustee in the trustee's individual capacity.