

By: Hartnett

H.B. No. 1471

A BILL TO BE ENTITLED

AN ACT

relating to the duties and removal of a trustee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 113.082(a), Property Code, is amended to read as follows:

(a) A trustee may be removed in accordance with the terms of the trust instrument, or, on the petition of an interested person and after hearing, a court may, in its discretion, remove a trustee and deny part or all of the trustee's compensation if:

(1) the trustee materially violated or attempted to violate the terms of the trust and the violation or attempted violation results in a material financial loss to the trust;

(2) the trustee becomes incompetent or insolvent; ~~or~~

(3) the trustee fails to make an accounting that is required by law or by the terms of the trust; or

(4) in the discretion of the court, for other cause.

SECTION 2. Section 113.151(a), Property Code, is amended to read as follows:

(a) A beneficiary by written demand may request the trustee to deliver to each beneficiary of the trust a written statement of accounts covering all transactions since the last accounting or since the creation of the trust, whichever is later. 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

1 period ordered by a court [~~within a reasonable time after the demand~~  
2 ~~is made~~], any beneficiary of the trust may file suit to compel the  
3 trustee to deliver the statement to all beneficiaries of the trust.  
4 The court may require the trustee to deliver a written statement of  
5 account to all beneficiaries on finding that the nature of the  
6 beneficiary's interest in the trust or the effect of the  
7 administration of the trust on the beneficiary's interest is  
8 sufficient to require an accounting by the trustee. However, the  
9 trustee is not obligated or required to account to the  
10 beneficiaries of a trust more frequently than once every 12 months  
11 unless a more frequent accounting is required by the court. If a  
12 beneficiary is successful in the suit to compel a statement under  
13 this section, the court may, in its discretion, award all or part of  
14 the costs of court and all of the suing beneficiary's reasonable and  
15 necessary attorney's fees and costs against the trustee in the  
16 trustee's individual capacity or in the trustee's capacity as  
17 trustee.

18 SECTION 3. This Act takes effect September 1, 2003, and  
19 applies only to a demand for an accounting made on or after that  
20 date.