

1-1 By: Hartnett (Senate Sponsor - Harris) H.B. No. 1472
1-2 (In the Senate - Received from the House March 31, 2003;
1-3 April 3, 2003, read first time and referred to Committee on
1-4 Jurisprudence; May 2, 2003, reported favorably by the following
1-5 vote: Yeas 6, Nays 0; May 2, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the exercise of powers of appointment.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 181.001, Property Code, is amended by
1-11 adding Subdivision (1-a) to read as follows:

1-12 (1-a) "Object of the power of appointment" means a
1-13 person to whom the donee is given the power to appoint.

1-14 SECTION 2. Chapter 181, Property Code, is amended by adding
1-15 Subchapter C to read as follows:

1-16 SUBCHAPTER C. EXERCISE OF POWERS OF APPOINTMENT

1-17 Sec. 181.081. EXTENT OF POWER. Unless an instrument
1-18 creating a power expressly provides to the contrary, a donee may
1-19 exercise a power in any manner consistent with this subchapter.

1-20 Sec. 181.082. GENERAL EXERCISE. In exercising a power, a
1-21 donee may make an appointment:

1-22 (1) of present, future, or present and future
1-23 interests;

1-24 (2) with conditions and limitations;

1-25 (3) with restraints on alienation;

1-26 (4) of interests to a trustee for the benefit of one or
1-27 more objects of the power; and

1-28 (5) that creates any right existing under common law.

1-29 Sec. 181.083. CREATING ADDITIONAL POWERS. (a) In exercising
1-30 a power, a donee may make appointments that create in the objects of
1-31 the power additional powers of appointment. The additional powers
1-32 of appointment must be exercisable in favor of objects of the power
1-33 who would have been permissible objects under the original donee's
1-34 power.

1-35 (b) In exercising a power, a donee who may appoint outright
1-36 to an object of the power may make appointments that create in the
1-37 object of the power powers exercisable in favor of persons that the
1-38 original donee may direct, even though the objects of the secondary
1-39 power of appointment may not have been permissible objects of the
1-40 original donee's power.

1-41 SECTION 3. This Act takes effect September 1, 2003, and
1-42 applies only to a power of appointment exercised on or after that
1-43 date, without regard to whether the instrument creating that power
1-44 was made before, on, or after that date.

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