

By: Harris

S.B. No. 576

A BILL TO BE ENTITLED

AN ACT

relating to the exercise of powers of appointment.

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

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

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

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

SUBCHAPTER C. EXERCISE OF POWERS OF APPOINTMENT

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

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

(1) of present, future, or present and future interests;

(2) with conditions and limitations;

(3) with restraints on alienation;

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

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

Sec. 181.083. CREATING ADDITIONAL POWERS. (a) In exercising a power, a donee may make appointments that create in the objects of

1 the power additional powers of appointment. The additional powers
2 of appointment must be exercisable in favor of objects of the power
3 who would have been permissible objects under the original donee's
4 power.

5 (b) In exercising a power, a donee who may appoint outright
6 to an object of the power may make appointments that create in the
7 object of the power powers exercisable in favor of persons that the
8 original donee may direct, even though the objects of the secondary
9 power of appointment may not have been permissible objects of the
10 original donee's power.

11 SECTION 3. This Act takes effect September 1, 2003, and
12 applies only to a power of appointment exercised on or after that
13 date, without regard to whether the instrument creating that power
14 was made before, on, or after that date.