

By: Hartnett

H.B. No. 92

A BILL TO BE ENTITLED

AN ACT

relating to the administration and operation of certain trusts.

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

SECTION 1. Section 111.0035, Property Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The terms of a trust prevail over any provision of this subtitle, except that the terms of a trust may not limit:

(1) the requirements imposed under Section 112.031;

(2) the duties and liabilities of and restrictions placed on a corporate trustee under Section 113.052 or 113.053;

(3) the applicability of Section 114.007 to an exculpation term of a trust;

(4) the periods of limitation for commencing a judicial proceeding regarding a trust;

(5) a trustee's duty:

(A) with regard to an irrevocable trust, to respond to a demand for accounting made under Section 113.151 if the demand is from a beneficiary who, at the time of the demand:

(i) is entitled or permitted to receive distributions from the trust; or

(ii) would receive a distribution from the trust if the trust terminated at the time of the demand; and

(B) to act in good faith and in accordance with

1 the purposes of the trust; ~~and~~

2 ~~[(C) under Section 113.060 to a beneficiary~~  
3 ~~described by Paragraph (A) that is 25 years of age or older,]~~ or

4 (6) the power of a court, in the interest of justice,  
5 to take action or exercise jurisdiction, including the power to:

6 (A) modify or terminate a trust or take other  
7 action under Section 112.054;

8 (B) remove a trustee under Section 113.082;

9 (C) exercise jurisdiction under Section 115.001;

10 (D) require, dispense with, modify, or terminate  
11 a trustee's bond; or

12 (E) adjust or deny a trustee's compensation if  
13 the trustee commits a breach of trust.

14 (c) The terms of a trust may not limit any common-law duty to  
15 keep a beneficiary of an irrevocable trust who is 25 years of age or  
16 older informed at any time during which the beneficiary:

17 (1) is entitled or permitted to receive distributions  
18 from the trust; or

19 (2) would receive a distribution from the trust if the  
20 trust were terminated.

21 SECTION 2. Section 113.060, Property Code, is repealed.

22 SECTION 3. The enactment of Section 113.060, Property Code,  
23 by Chapter 148, Acts of the 79th Legislature, Regular Session,  
24 2005, was not intended to repeal any common-law duty to keep a  
25 beneficiary of a trust informed, and the repeal by this Act of  
26 Section 113.060, Property Code, does not repeal any common-law duty  
27 to keep a beneficiary informed. The common-law duty to keep a

1 beneficiary informed that existed immediately before January 1,  
2 2006, is continued in effect.

3 SECTION 4. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect on the 91st day after the last day of the  
8 legislative session.