

AN ACT

relating to testamentary and nontestamentary transfers of property and other benefits and the administration of those benefits.

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

SECTION 1. Section 131A(d), Texas Probate Code, is amended to read as follows:

(d) Not later than the third business day after ~~[On]~~ the date of the order, the appointee shall file with the county clerk a bond in the amount ordered by the court. In this subsection, "business day" means a day other than a Saturday, Sunday, or holiday recognized by this state.

SECTION 2. Section 248, Texas Probate Code, is amended to read as follows:

Sec. 248. APPOINTMENT OF APPRAISERS. At any time after the grant of letters testamentary or of administration, ~~[upon the application of any interested person or if the court shall deem necessary,]~~ the court for good cause on its own motion or on the motion of an interested party shall appoint not less than one nor more than three disinterested persons, citizens of the county in which letters were granted, to appraise the property of the estate. In such event and when part of the estate is situated in a county other than the county in which letters were granted, if the court shall deem necessary it may appoint not less than one nor more than three disinterested persons, citizens of the county where such part

1 of the estate is situated, to appraise the property of the estate
2 situated therein.

3 SECTION 3. Subchapter A, Chapter 113, Property Code, is
4 amended by adding Section 113.028 to read as follows:

5 Sec. 113.028. CERTAIN CLAIMS AND CAUSES OF ACTION
6 PROHIBITED. (a) A trustee may not prosecute or assert a claim for
7 damages in a cause of action against a party who is not a
8 beneficiary of the trust if each beneficiary of the trust provides
9 written notice to the trustee of the beneficiary's opposition to
10 the trustee's prosecuting or asserting the claim in the cause of
11 action.

12 (b) This section does not apply to a cause of action that is
13 prosecuted by a trustee in the trustee's individual capacity.

14 (c) The trustee is not liable for failing to prosecute or
15 assert a claim in a cause of action if prohibited by the
16 beneficiaries under Subsection (a).

17 SECTION 4. Sections 131A and 248, Texas Probate Code, as
18 amended by this Act, apply only to the estate of a decedent who dies
19 on or after the effective date of this Act. The estate of a decedent
20 who dies before the effective date of this Act is governed by the
21 law in effect on the date of the decedent's death, and the former
22 law is continued in effect for that purpose.

23 SECTION 5. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 3434 was passed by the House on May 9, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 3434 on May 26, 2005, by the following vote: Yeas 141, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3434 was passed by the Senate, with amendments, on May 24, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor