

1-1 By: Hartnett (Senate Sponsor - Wentworth) H.B. No. 3434  
1-2 (In the Senate - Received from the House May 10, 2005;  
1-3 May 12, 2005, read first time and referred to Committee on  
1-4 Jurisprudence; May 20, 2005, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;  
1-6 May 20, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3434 By: Wentworth

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to testamentary and nontestamentary transfers of property  
1-11 and other benefits and the administration of those benefits.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 131A(d), Texas Probate Code, is amended  
1-14 to read as follows:

1-15 (d) Not later than the third business day after [On] the  
1-16 date of the order, the appointee shall file with the county clerk a  
1-17 bond in the amount ordered by the court. In this subsection,  
1-18 "business day" means a day other than a Saturday, Sunday, or holiday  
1-19 recognized by this state.

1-20 SECTION 2. Section 248, Texas Probate Code, is amended to  
1-21 read as follows:

1-22 Sec. 248. APPOINTMENT OF APPRAISERS. At any time after the  
1-23 grant of letters testamentary or of administration, [~~upon the~~  
1-24 ~~application of any interested person or if the court shall deem~~  
1-25 ~~necessary,~~] the court for good cause on its own motion or on the  
1-26 motion of an interested party shall appoint not less than one nor  
1-27 more than three disinterested persons, citizens of the county in  
1-28 which letters were granted, to appraise the property of the estate.  
1-29 In such event and when part of the estate is situated in a county  
1-30 other than the county in which letters were granted, if the court  
1-31 shall deem necessary it may appoint not less than one nor more than  
1-32 three disinterested persons, citizens of the county where such part  
1-33 of the estate is situated, to appraise the property of the estate  
1-34 situated therein.

1-35 SECTION 3. Subchapter A, Chapter 113, Property Code, is  
1-36 amended by adding Section 113.028 to read as follows:

1-37 Sec. 113.028. CERTAIN CLAIMS AND CAUSES OF ACTION  
1-38 PROHIBITED. (a) A trustee may not prosecute or assert a claim for  
1-39 damages in a cause of action against a party who is not a  
1-40 beneficiary of the trust if each beneficiary of the trust provides  
1-41 written notice to the trustee of the beneficiary's opposition to  
1-42 the trustee's prosecuting or asserting the claim in the cause of  
1-43 action.

1-44 (b) This section does not apply to a cause of action that is  
1-45 prosecuted by a trustee in the trustee's individual capacity.

1-46 (c) The trustee is not liable for failing to prosecute or  
1-47 assert a claim in a cause of action if prohibited by the  
1-48 beneficiaries under Subsection (a).

1-49 SECTION 4. (a) Sections 131A and 248, Texas Probate Code,  
1-50 as amended by this Act, apply only to the estate of a decedent who  
1-51 dies on or after the effective date of this Act. The estate of a  
1-52 decedent who dies before the effective date of this Act is governed  
1-53 by the law in effect on the date of the decedent's death, and the  
1-54 former law is continued in effect for that purpose.

1-55 (b) Section 113.028, Property Code, as added by this Act,  
1-56 applies only to a cause of action filed on or after the effective  
1-57 date of this Act. A cause of action filed before the effective date  
1-58 of this Act is governed by the law in effect on the date the cause of  
1-59 action was filed, and the former law is continued in effect for that  
1-60 purpose.

1-61 SECTION 5. This Act takes effect September 1, 2005.

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