

By: Hartnett

H.B. No. 3198

A BILL TO BE ENTITLED

AN ACT

relating to the removal of a trustee.

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

SECTION 1. Section 113.082, Property Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) A trustee shall be removed if the grantor and each beneficiary agrees to the removal and provides the trustee with a written notice of removal signed by the grantor and each beneficiary. On receipt of a notice under this subsection, the trustee may resign or petition a court for discharge. A trustee that petitions a court for discharge under this section is entitled to the trustee's reasonable attorney's fees incurred in the proceeding.

(e) For the purposes of Subsection (d):

(1) the term "beneficiary" means a person currently receiving or currently entitled to receive distributions from the trust estate and does not include contingent, unborn, or unascertained beneficiaries; and

(2) the following persons may act on behalf of a minor or otherwise incapacitated beneficiary:

(A) the guardian of the minor or otherwise incapacitated beneficiary;

(B) if there is no guardian, the parent of the beneficiary, if the parent does not have a conflict of interest; or

1 (C) if there is not a person acting under
2 Subdivision (1) or (2), any other beneficiary of the trust acting
3 under the doctrine of virtual representation as set forth in
4 Section 115.013(c)(4).

5 SECTION 2. This Act takes effect September 1, 2007.