By: Leibowitz H.B. No. 2416

A BILL TO BE ENTITLED

AN ACT

relating to attorney general participation in proceedings involving charitable trusts.

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

SECTION 1. Section 123.005, Property Code, is amended to read as follows:

Sec. 123.005. BREACH OF FIDUCIARY DUTY: VENUE. [~~(a)~~] Venue in a proceeding brought by the attorney general alleging breach of a fiduciary duty by a charitable entity or a fiduciary or managerial agent of a charitable trust shall be a court of competent jurisdiction in Travis County or in the county where the defendant resides or has its principal office.

[~~(b) The attorney general, if successful in the proceeding, is entitled to recover from a fiduciary or managerial agent of a charitable trust actual costs incurred in bringing the suit and may recover reasonable attorney's fees.~~]

SECTION 2. Chapter 123, Property Code, is amended by adding Section 123.006 to read as follows:

Sec. 123.006. ATTORNEY'S FEES. (a) In a proceeding subject to Section 123.005, the attorney general, if successful in the proceeding, is entitled to recover from the charitable entity or fiduciary or managerial agent of the charitable trust actual costs incurred in bringing the suit and may recover reasonable attorney's fees.

(b) In a proceeding in which the attorney general intervenes under this chapter, other than a proceeding subject to Section 123.005, a court may award the attorney general court costs and reasonable and necessary attorney's fees as may seem equitable and just.

SECTION 3. The change in law made by this Act applies only to a proceeding commenced on or after the effective date of this Act. A proceeding commenced before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2009.