

By: Hartnett

H.B. No. 3086

A BILL TO BE ENTITLED

AN ACT

relating to jurisdiction of probate proceedings and proceedings regarding powers of attorney and certain trusts.

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

ARTICLE 1. JURISDICTION OF CERTAIN PROCEEDINGS: TEXAS PROBATE

CODE

SECTION 1.01. Section 3(bb), Texas Probate Code, is amended to read as follows:

(bb) "Probate proceeding" is synonymous with the terms "Probate matter," [~~"Probate proceedings,"~~] "Proceeding in probate," and "Proceedings for probate." The term means a matter or proceeding related to the estate of a decedent [~~are synonymous~~] and includes:

(1) the probate of a will, with or without administration of the estate;

(2) the issuance of letters testamentary and of administration;

(3) an heirship determination or small estate affidavit, community property administration, and homestead and family allowances;

(4) an application, petition, motion, or action regarding the probate of a will or an estate administration, including a claim for money owed by the decedent;

(5) a claim arising from an estate administration

1 and any action brought on the claim;

2 (6) the settling of a personal representative's
3 account of an estate and any other matter related to the settlement,
4 partition, or distribution of an estate; and

5 (7) a will construction suit [~~include a matter or~~
6 ~~proceeding relating to the estate of a decedent~~].

7 SECTION 1.02. Chapter I, Texas Probate Code, is amended by
8 adding Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H to read as
9 follows:

10 Sec. 4A. GENERAL PROBATE COURT JURISDICTION; APPEALS. (a)
11 All probate proceedings must be filed and heard in a court
12 exercising original probate jurisdiction. The court exercising
13 original probate jurisdiction also has jurisdiction of all matters
14 related to the probate proceeding as specified in Section 4B of this
15 code for that type of court.

16 (b) A probate court may exercise pendent and ancillary
17 jurisdiction as necessary to promote judicial efficiency and
18 economy.

19 (c) A final order issued by a probate court is appealable to
20 the court of appeals.

21 Sec. 4B. MATTERS RELATED TO PROBATE PROCEEDING. (a) For
22 purposes of this code, in a county in which there is no statutory
23 probate court or county court at law exercising original probate
24 jurisdiction, a matter related to a probate proceeding includes:

25 (1) an action against a personal representative or
26 former personal representative arising out of the representative's
27 performance of the duties of a personal representative;

1 (2) an action against a surety of a personal
2 representative or former personal representative;

3 (3) a claim brought by a personal representative on
4 behalf of an estate;

5 (4) an action brought against a personal
6 representative in the representative's capacity as personal
7 representative;

8 (5) an action for trial of title to real property that
9 is estate property, including the enforcement of a lien against the
10 property; and

11 (6) an action for trial of the right of property that
12 is estate property.

13 (b) For purposes of this code, in a county in which there is
14 no statutory probate court, but in which there is a county court at
15 law exercising original probate jurisdiction, a matter related to a
16 probate proceeding includes:

17 (1) all matters and actions described in Subsection
18 (a) of this section;

19 (2) the interpretation and administration of a
20 testamentary trust if the will creating the trust has been admitted
21 to probate in the court; and

22 (3) the interpretation and administration of an inter
23 vivos trust created by a decedent whose will has been admitted to
24 probate in the court.

25 (c) For purposes of this code, in a county in which there is
26 a statutory probate court, a matter related to a probate proceeding
27 includes:

1 (1) all matters and actions described in Subsections
2 (a) and (b) of this section; and

3 (2) any cause of action in which a personal
4 representative of an estate pending in the statutory probate court
5 is a party in the representative's capacity as personal
6 representative.

7 Sec. 4C. ORIGINAL JURISDICTION FOR PROBATE PROCEEDINGS.

8 (a) In a county in which there is no statutory probate court or
9 county court at law exercising original probate jurisdiction, the
10 county court has original jurisdiction of probate proceedings.

11 (b) In a county in which there is no statutory probate
12 court, but in which there is a county court at law exercising
13 original probate jurisdiction, the county court at law exercising
14 original probate jurisdiction and the county court have concurrent
15 original jurisdiction of probate proceedings, unless otherwise
16 provided by law. The judge of a county court may hear probate
17 proceedings while sitting for the judge of any other county court.

18 (c) In a county in which there is a statutory probate court,
19 the statutory probate court has original jurisdiction of probate
20 proceedings.

21 Sec. 4D. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN
22 COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY COURT.

23 (a) In a county in which there is no statutory probate court or
24 county court at law exercising original probate jurisdiction, when
25 a matter in a probate proceeding is contested, the judge of the
26 county court may, on the judge's own motion, or shall, on the motion
27 of any party to the proceeding, according to the motion:

1 (1) request the assignment of a statutory probate
2 court judge to hear the contested matter, as provided by Section
3 25.0022, Government Code; or

4 (2) transfer the contested matter to the district
5 court, which may then hear the contested matter as if originally
6 filed in the district court.

7 (b) If a party to a probate proceeding files a motion for the
8 assignment of a statutory probate court judge to hear a contested
9 matter in the proceeding before the judge of the county court
10 transfers the contested matter to a district court under this
11 section, the county judge shall grant the motion for the assignment
12 of a statutory probate court judge and may not transfer the matter
13 to the district court unless the party withdraws the motion.

14 (c) A party to a probate proceeding may file a motion for the
15 assignment of a statutory probate court judge under this section
16 before a matter in the proceeding becomes contested, and the motion
17 is given effect as a motion for assignment of a statutory probate
18 court judge under Subsection (a) of this section if the matter later
19 becomes contested.

20 (d) Notwithstanding any other law, a transfer of a contested
21 matter in a probate proceeding to a district court under any
22 authority other than the authority provided by this section:

23 (1) is disregarded for purposes of this section; and

24 (2) does not defeat the right of a party to the
25 proceeding to have the matter assigned to a statutory probate court
26 judge in accordance with this section.

27 (e) A statutory probate court judge assigned to a contested

1 matter under this section has the jurisdiction and authority
2 granted to a statutory probate court by this code. On resolution of
3 a contested matter for which a statutory probate court judge is
4 assigned under this section, including any appeal of the matter,
5 the statutory probate court judge shall return the matter to the
6 county court for further proceedings not inconsistent with the
7 orders of the statutory probate court or court of appeals, as
8 applicable.

9 (f) A district court to which a contested matter is
10 transferred under this section has the jurisdiction and authority
11 granted to a statutory probate court by this code. On resolution of
12 a contested matter transferred to the district court under this
13 section, including any appeal of the matter, the district court
14 shall return the matter to the county court for further proceedings
15 not inconsistent with the orders of the district court or court of
16 appeals, as applicable.

17 (g) The county court shall continue to exercise
18 jurisdiction over the management of the estate, other than a
19 contested matter, until final disposition of the contested matter
20 is made in accordance with this section. After a contested matter
21 is transferred to a district court, any matter related to the
22 probate proceeding may be brought in the district court. The
23 district court in which a matter related to the probate proceeding
24 is filed may, on its own motion or on the motion of any party, find
25 that the matter is not a contested matter and transfer the matter to
26 the county court with jurisdiction of the management of the estate.

27 (h) If a contested matter in a probate proceeding is

1 transferred to a district court under this section, the district
2 court has jurisdiction of any contested matter in the proceeding
3 that is subsequently filed, and the county court shall transfer
4 those contested matters to the district court. If a statutory
5 probate court judge is assigned under this section to hear a
6 contested matter in a probate proceeding, the statutory probate
7 court judge shall be assigned to hear any contested matter in the
8 proceeding that is subsequently filed.

9 (i) The clerk of a district court to which a contested
10 matter in a probate proceeding is transferred under this section
11 may perform in relation to the contested matter any function a
12 county clerk may perform with respect to that type of matter.

13 Sec. 4E. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN
14 COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in which
15 there is no statutory probate court, but in which there is a county
16 court at law exercising original probate jurisdiction, when a
17 matter in a probate proceeding is contested, the judge of the county
18 court may, on the judge's own motion, or shall, on the motion of any
19 party to the proceeding, transfer the contested matter to the
20 county court at law. In addition, the judge of the county court, on
21 the judge's own motion or on the motion of a party to the
22 proceeding, may transfer the entire proceeding to the county court
23 at law.

24 (b) A county court at law to which a proceeding is
25 transferred under this section may hear the proceeding as if
26 originally filed in that court. If only a contested matter in the
27 proceeding is transferred, on the resolution of the matter, the

1 matter shall be returned to the county court for further
2 proceedings not inconsistent with the orders of the county court at
3 law.

4 Sec. 4F. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING IN
5 COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which
6 there is a statutory probate court, the statutory probate court has
7 exclusive jurisdiction of all probate proceedings, regardless of
8 whether contested or uncontested. A cause of action related to the
9 probate proceeding must be brought in a statutory probate court
10 unless the jurisdiction of the statutory probate court is
11 concurrent with the jurisdiction of a district court as provided by
12 Section 4H of this code or with the jurisdiction of any other court.

13 (b) This section shall be construed in conjunction and in
14 harmony with Section 145 of this code and all other sections of this
15 code relating to independent executors, but may not be construed to
16 expand the court's control over an independent executor.

17 Sec. 4G. JURISDICTION OF STATUTORY PROBATE COURT WITH
18 RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which
19 there is a statutory probate court, the statutory probate court has
20 jurisdiction of:

21 (1) an action by or against a trustee;
22 (2) an action involving an inter vivos trust,
23 testamentary trust, or charitable trust;

24 (3) an action against an agent or former agent under a
25 power of attorney arising out of the agent's performance of the
26 duties of an agent; and

27 (4) an action to determine the validity of a power of

1 attorney or to determine an agent's rights, powers, or duties under
2 a power of attorney.

3 Sec. 4H. CONCURRENT JURISDICTION WITH DISTRICT COURT. A
4 statutory probate court has concurrent jurisdiction with the
5 district court in:

6 (1) a personal injury, survival, or wrongful death
7 action by or against a person in the person's capacity as a personal
8 representative;

9 (2) an action by or against a trustee;

10 (3) an action involving an inter vivos trust,
11 testamentary trust, or charitable trust;

12 (4) an action involving a personal representative of
13 an estate in which each other party aligned with the personal
14 representative is not an interested person in that estate;

15 (5) an action against an agent or former agent under a
16 power of attorney arising out of the agent's performance of the
17 duties of an agent; and

18 (6) an action to determine the validity of a power of
19 attorney or to determine an agent's rights, powers, or duties under
20 a power of attorney.

21 SECTION 1.03. Section 5B(a), Texas Probate Code, is amended
22 to read as follows:

23 (a) A judge of a statutory probate court, on the motion of a
24 party to the action or on the motion of a person interested in an
25 estate, may transfer to the judge's [his] court from a district,
26 county, or statutory court a cause of action related to a probate
27 proceeding [appertaining to or incident to an estate] pending in

1 the statutory probate court or a cause of action in which a personal
2 representative of an estate pending in the statutory probate court
3 is a party and may consolidate the transferred cause of action with
4 the other proceedings in the statutory probate court relating to
5 that estate.

6 SECTION 1.04. Section 25.0022(i), Government Code, is
7 amended to read as follows:

8 (i) A judge assigned under this section has the
9 jurisdiction, powers, and duties given by Sections 4A, 4C, 4F, 4G,
10 4H [~~5, 5A~~], 5B, 606, 607, and 608, Texas Probate Code, to statutory
11 probate court judges by general law.

12 SECTION 1.05. Section 25.1132(c), Government Code, is
13 amended to read as follows:

14 (c) A county court at law in Hood County has concurrent
15 jurisdiction with the district court in:

16 (1) civil cases in which the matter in controversy
17 exceeds \$500 but does not exceed \$250,000, excluding interest;

18 (2) family law cases and related proceedings;

19 (3) contested probate matters under Section 4D(a)
20 [~~5(b)~~], Texas Probate Code; and

21 (4) contested guardianship matters under Section
22 606(b), Texas Probate Code.

23 SECTION 1.06. Section 25.1863(b), Government Code, is
24 amended to read as follows:

25 (b) A county court at law has concurrent jurisdiction with
26 the district court over contested probate
27 matters. Notwithstanding the requirement in [~~Subsection (b),~~]

1 Section 4D(a) [~~5~~], Texas Probate Code, that the judge of the
2 constitutional county court transfer a contested probate
3 proceeding to the district court, the judge of the constitutional
4 county court shall transfer the proceeding under that section to
5 either a county court at law in Parker County or a district court in
6 Parker County. A county court at law has the jurisdiction, powers,
7 and duties that a district court has under [~~Subsection (b),~~]
8 Section 4D(a) [~~5~~], Texas Probate Code, for the transferred
9 proceeding, and the county clerk acts as clerk for the proceeding.
10 The contested proceeding may be transferred between a county court
11 at law in Parker County and a district court in Parker County as
12 provided by local rules of administration.

13 SECTION 1.07. Section 123.005(a), Property Code, is amended
14 to read as follows:

15 (a) Venue in a proceeding brought by the attorney general
16 alleging breach of a fiduciary duty by a fiduciary or managerial
17 agent of a charitable trust shall be a court of competent
18 jurisdiction in Travis County or in the county where the defendant
19 resides or has its principal office. To the extent of a conflict
20 between this subsection and any provision of the Texas Probate Code
21 providing for venue of a proceeding brought with respect to a
22 charitable trust created by a will that has been admitted to
23 probate, this subsection controls.

24 SECTION 1.08. Sections 4, 5, and 5A, Texas Probate Code, are
25 repealed.

26 SECTION 1.09. The changes in law made by this article apply
27 only to an action filed or a proceeding commenced on or after the

1 effective date of this Act. An action filed or proceeding commenced
2 before the effective date of this Act is governed by the law in
3 effect on the date the action was filed or the proceeding was
4 commenced, and the former law is continued in effect for that
5 purpose.

6 ARTICLE 2. JURISDICTION OF CERTAIN PROCEEDINGS: TEXAS PROBATE CODE
7 RECODIFICATION

8 SECTION 2.01. Effective January 1, 2014, Subtitle A, Title
9 2, Estates Code, as adopted by H.B. No. 2502, Acts of the 81st
10 Legislature, Regular Session, 2009, if that Act is enacted and
11 becomes law, and Subtitle A, Title 2, Estates and Guardianships
12 Code, as adopted by S.B. No. 2071, Acts of the 81st Legislature,
13 Regular Session, 2009, if that Act is enacted and becomes law, are
14 amended by adding Chapters 31 and 32 to read as follows:

15 CHAPTER 31. GENERAL PROVISIONS

16 Sec. 31.001. SCOPE OF "PROBATE PROCEEDING" FOR PURPOSES OF
17 CODE. The term "probate proceeding," as used in this code,
18 includes:

19 (1) the probate of a will, with or without
20 administration of the estate;

21 (2) the issuance of letters testamentary and of
22 administration;

23 (3) an heirship determination or small estate
24 affidavit, community property administration, and homestead and
25 family allowances;

26 (4) an application, petition, motion, or action
27 regarding the probate of a will or an estate administration,

1 including a claim for money owed by the decedent;

2 (5) a claim arising from an estate administration and
3 any action brought on the claim;

4 (6) the settling of a personal representative's
5 account of an estate and any other matter related to the settlement,
6 partition, or distribution of an estate; and

7 (7) a will construction suit.

8 Sec. 31.002. MATTERS RELATED TO PROBATE PROCEEDING. (a)

9 For purposes of this code, in a county in which there is no
10 statutory probate court or county court at law exercising original
11 probate jurisdiction, a matter related to a probate proceeding
12 includes:

13 (1) an action against a personal representative or
14 former personal representative arising out of the representative's
15 performance of the duties of a personal representative;

16 (2) an action against a surety of a personal
17 representative or former personal representative;

18 (3) a claim brought by a personal representative on
19 behalf of an estate;

20 (4) an action brought against a personal
21 representative in the representative's capacity as personal
22 representative;

23 (5) an action for trial of title to real property that
24 is estate property, including the enforcement of a lien against the
25 property; and

26 (6) an action for trial of the right of property that
27 is estate property.

1 (b) For purposes of this code, in a county in which there is
2 no statutory probate court, but in which there is a county court at
3 law exercising original probate jurisdiction, a matter related to a
4 probate proceeding includes:

5 (1) all matters and actions described in Subsection
6 (a);

7 (2) the interpretation and administration of a
8 testamentary trust if the will creating the trust has been admitted
9 to probate in the court; and

10 (3) the interpretation and administration of an inter
11 vivos trust created by a decedent whose will has been admitted to
12 probate in the court.

13 (c) For purposes of this code, in a county in which there is
14 a statutory probate court, a matter related to a probate proceeding
15 includes:

16 (1) all matters and actions described in Subsections
17 (a) and (b); and

18 (2) any cause of action in which a personal
19 representative of an estate pending in the statutory probate court
20 is a party in the representative's capacity as personal
21 representative.

22 CHAPTER 32. JURISDICTION

23 Sec. 32.001. GENERAL PROBATE COURT JURISDICTION; APPEALS.

24 (a) All probate proceedings must be filed and heard in a court
25 exercising original probate jurisdiction. The court exercising
26 original probate jurisdiction also has jurisdiction of all matters
27 related to the probate proceeding as specified in Section 31.002

1 for that type of court.

2 (b) A probate court may exercise pendent and ancillary
3 jurisdiction as necessary to promote judicial efficiency and
4 economy.

5 (c) A final order issued by a probate court is appealable to
6 the court of appeals.

7 Sec. 32.002. ORIGINAL JURISDICTION FOR PROBATE
8 PROCEEDINGS. (a) In a county in which there is no statutory
9 probate court or county court at law exercising original probate
10 jurisdiction, the county court has original jurisdiction of probate
11 proceedings.

12 (b) In a county in which there is no statutory probate
13 court, but in which there is a county court at law exercising
14 original probate jurisdiction, the county court at law exercising
15 original probate jurisdiction and the county court have concurrent
16 original jurisdiction of probate proceedings, unless otherwise
17 provided by law. The judge of a county court may hear probate
18 proceedings while sitting for the judge of any other county court.

19 (c) In a county in which there is a statutory probate court,
20 the statutory probate court has original jurisdiction of probate
21 proceedings.

22 Sec. 32.003. JURISDICTION OF CONTESTED PROBATE PROCEEDING
23 IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY
24 COURT. (a) In a county in which there is no statutory probate court
25 or county court at law exercising original probate jurisdiction,
26 when a matter in a probate proceeding is contested, the judge of the
27 county court may, on the judge's own motion, or shall, on the motion

1 of any party to the proceeding, according to the motion:

2 (1) request the assignment of a statutory probate
3 court judge to hear the contested matter, as provided by Section
4 25.0022, Government Code; or

5 (2) transfer the contested matter to the district
6 court, which may then hear the contested matter as if originally
7 filed in the district court.

8 (b) If a party to a probate proceeding files a motion for the
9 assignment of a statutory probate court judge to hear a contested
10 matter in the proceeding before the judge of the county court
11 transfers the contested matter to a district court under this
12 section, the county judge shall grant the motion for the assignment
13 of a statutory probate court judge and may not transfer the matter
14 to the district court unless the party withdraws the motion.

15 (c) A party to a probate proceeding may file a motion for the
16 assignment of a statutory probate court judge under this section
17 before a matter in the proceeding becomes contested, and the motion
18 is given effect as a motion for assignment of a statutory probate
19 court judge under Subsection (a) if the matter later becomes
20 contested.

21 (d) Notwithstanding any other law, a transfer of a contested
22 matter in a probate proceeding to a district court under any
23 authority other than the authority provided by this section:

24 (1) is disregarded for purposes of this section; and

25 (2) does not defeat the right of a party to the
26 proceeding to have the matter assigned to a statutory probate court
27 judge in accordance with this section.

1 (e) A statutory probate court judge assigned to a contested
2 matter under this section has the jurisdiction and authority
3 granted to a statutory probate court by this subtitle. On
4 resolution of a contested matter for which a statutory probate
5 court judge is assigned under this section, including any appeal of
6 the matter, the statutory probate court judge shall return the
7 matter to the county court for further proceedings not inconsistent
8 with the orders of the statutory probate court or court of appeals,
9 as applicable.

10 (f) A district court to which a contested matter is
11 transferred under this section has the jurisdiction and authority
12 granted to a statutory probate court by this subtitle. On
13 resolution of a contested matter transferred to the district court
14 under this section, including any appeal of the matter, the
15 district court shall return the matter to the county court for
16 further proceedings not inconsistent with the orders of the
17 district court or court of appeals, as applicable.

18 (g) The county court shall continue to exercise
19 jurisdiction over the management of the estate, other than a
20 contested matter, until final disposition of the contested matter
21 is made in accordance with this section. After a contested matter
22 is transferred to a district court, any matter related to the
23 probate proceeding may be brought in the district court. The
24 district court in which a matter related to the probate proceeding
25 is filed may, on its own motion or on the motion of any party, find
26 that the matter is not a contested matter and transfer the matter to
27 the county court with jurisdiction of the management of the estate.

1 (h) If a contested matter in a probate proceeding is
2 transferred to a district court under this section, the district
3 court has jurisdiction of any contested matter in the proceeding
4 that is subsequently filed, and the county court shall transfer
5 those contested matters to the district court. If a statutory
6 probate court judge is assigned under this section to hear a
7 contested matter in a probate proceeding, the statutory probate
8 court judge shall be assigned to hear any contested matter in the
9 proceeding that is subsequently filed.

10 (i) The clerk of a district court to which a contested
11 matter in a probate proceeding is transferred under this section
12 may perform in relation to the contested matter any function a
13 county clerk may perform with respect to that type of matter.

14 Sec. 32.004. JURISDICTION OF CONTESTED PROBATE PROCEEDING
15 IN COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in which
16 there is no statutory probate court, but in which there is a county
17 court at law exercising original probate jurisdiction, when a
18 matter in a probate proceeding is contested, the judge of the county
19 court may, on the judge's own motion, or shall, on the motion of any
20 party to the proceeding, transfer the contested matter to the
21 county court at law. In addition, the judge of the county court, on
22 the judge's own motion or on the motion of a party to the
23 proceeding, may transfer the entire proceeding to the county court
24 at law.

25 (b) A county court at law to which a proceeding is
26 transferred under this section may hear the proceeding as if
27 originally filed in that court. If only a contested matter in the

1 proceeding is transferred, on the resolution of the matter, the
2 matter shall be returned to the county court for further
3 proceedings not inconsistent with the orders of the county court at
4 law.

5 Sec. 32.005. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING
6 IN COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which
7 there is a statutory probate court, the statutory probate court has
8 exclusive jurisdiction of all probate proceedings, regardless of
9 whether contested or uncontested. A cause of action related to the
10 probate proceeding must be brought in a statutory probate court
11 unless the jurisdiction of the statutory probate court is
12 concurrent with the jurisdiction of a district court as provided by
13 Section 32.007 or with the jurisdiction of any other court.

14 (b) This section shall be construed in conjunction and in
15 harmony with Section 145 and all other sections of this title
16 relating to independent executors, but may not be construed to
17 expand the court's control over an independent executor.

18 Sec. 32.006. JURISDICTION OF STATUTORY PROBATE COURT WITH
19 RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which
20 there is a statutory probate court, the statutory probate court has
21 jurisdiction of:

22 (1) an action by or against a trustee;
23 (2) an action involving an inter vivos trust,
24 testamentary trust, or charitable trust;

25 (3) an action against an agent or former agent under a
26 power of attorney arising out of the agent's performance of the
27 duties of an agent; and

1 (4) an action to determine the validity of a power of
2 attorney or to determine an agent's rights, powers, or duties under
3 a power of attorney.

4 Sec. 32.007. CONCURRENT JURISDICTION WITH DISTRICT COURT.

5 A statutory probate court has concurrent jurisdiction with the
6 district court in:

7 (1) a personal injury, survival, or wrongful death
8 action by or against a person in the person's capacity as a personal
9 representative;

10 (2) an action by or against a trustee;

11 (3) an action involving an inter vivos trust,
12 testamentary trust, or charitable trust;

13 (4) an action involving a personal representative of
14 an estate in which each other party aligned with the personal
15 representative is not an interested person in that estate;

16 (5) an action against an agent or former agent under a
17 power of attorney arising out of the agent's performance of the
18 duties of an agent; and

19 (6) an action to determine the validity of a power of
20 attorney or to determine an agent's rights, powers, or duties under
21 a power of attorney.

22 SECTION 2.02. Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H,
23 Texas Probate Code, as added by Article 1 of this Act, are repealed.

24 SECTION 2.03. (a) Except as provided by Subsection (b) of
25 this section, this article takes effect January 1, 2014.

26 (b) The changes in law made by this article take effect only
27 if H.B. No. 2502 or S.B. No. 2071, Acts of the 81st Legislature,

1 Regular Session, 2009, is enacted and becomes law. If neither bill
2 becomes law, this article has no effect.

3 ARTICLE 3. EFFECTIVE DATE

4 SECTION 3.01. Except as otherwise provided by this Act,
5 this Act takes effect September 1, 2009.