

By: Geren

H.B. No. 3635

Substitute the following for H.B. No. 3635:

By: Martinez

C.S.H.B. No. 3635

A BILL TO BE ENTITLED

1

AN ACT

2 relating to administration of a trust with cotrustees.

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

4 SECTION 1. Section 113.085, Property Code, is amended by
5 amending Subsections (c) and (d) and adding Subsection (d-1) to
6 read as follows:

7 (c) A cotrustee shall participate in the performance of a
8 trustee's function unless the cotrustee:

9 (1) is unavailable to perform the function because of
10 absence, illness, suspension under this code, disqualification
11 under other law, or other temporary incapacity; or

12 (2) has delegated the performance of the function to
13 another trustee in accordance with the terms of the trust or
14 applicable law, has communicated the delegation to all other
15 cotrustees, and has filed the delegation in the records of the
16 trust.

17 (d) If a cotrustee is unavailable to participate in the
18 performance of a trustee's function for a reason described by
19 Subsection (c)(1) and prompt action is necessary to achieve the
20 efficient administration or purposes of the trust or to avoid
21 injury to the trust property or a beneficiary, the remaining
22 cotrustee or a majority of the remaining cotrustees may act for the
23 trust.

24 (d-1) If a cotrustee is unavailable to participate in the

1 performance of the cotrustee's function because the cotrustee has
2 been suspended under this code, the remaining cotrustee or
3 cotrustees may act for the trust as provided by the order of the
4 court that suspended the cotrustee or another order of that court.

5 SECTION 2. Section 113.085, Property Code, as amended by
6 this Act, applies only to a trust existing on or after September 1,
7 2009, regardless of the date the trust was created.

8 SECTION 3. This Act takes effect September 1, 2009.