

Suspending limitations on conference committee
jurisdiction, S.B. No. 408 (Carona/Hughes)

By: Hughes

H.R. No. 2968

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 81st Legislature, Regular Session, 2009, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on Senate Bill 408 (jurisdiction, venue,
6 and appeals in certain matters, including the jurisdiction of and
7 appeals from certain courts and administrative decisions and the
8 appointment of counsel in certain appeals) to consider and take
9 action on the following matters:

10 (1) House Rule 13, Section 9(a)(4), is suspended to permit
11 the committee to add text not included in either the house or senate
12 version of the bill by adding the following SECTIONS to the bill:

13 SECTION 12. (a) Section 3(bb), Texas Probate Code, is
14 amended to read as follows:

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

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

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

24 (3) an heirship determination or small estate

1 affidavit, community property administration, and homestead and
2 family allowances;

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

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

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

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

13 (b) Chapter I, Texas Probate Code, is amended by adding
14 Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H to read as follows:

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

21 (b) A probate court may exercise pendent and ancillary
22 jurisdiction as necessary to promote judicial efficiency and
23 economy.

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

26 Sec. 4B. MATTERS RELATED TO PROBATE PROCEEDING. (a) For
27 purposes of this code, in a county in which there is no statutory

1 probate court or county court at law exercising original probate
2 jurisdiction, a matter related to a probate proceeding includes:

3 (1) an action against a personal representative or
4 former personal representative arising out of the representative's
5 performance of the duties of a personal representative;

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

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

10 (4) an action brought against a personal
11 representative in the representative's capacity as personal
12 representative;

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

16 (6) an action for trial of the right of property that
17 is estate property.

18 (b) For purposes of this code, in a county in which there is
19 no statutory probate court, but in which there is a county court at
20 law exercising original probate jurisdiction, a matter related to a
21 probate proceeding includes:

22 (1) all matters and actions described in Subsection
23 (a) of this section;

24 (2) the interpretation and administration of a
25 testamentary trust if the will creating the trust has been admitted
26 to probate in the court; and

27 (3) the interpretation and administration of an inter

1 vivos trust created by a decedent whose will has been admitted to
2 probate in the court.

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

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

8 (2) any cause of action in which a personal
9 representative of an estate pending in the statutory probate court
10 is a party in the representative's capacity as personal
11 representative.

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

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

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

23 (c) In a county in which there is a statutory probate court,
24 the statutory probate court has original jurisdiction of probate
25 proceedings.

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

1 (a) In a county in which there is no statutory probate court or
2 county court at law exercising original probate jurisdiction, when
3 a matter in a probate proceeding is contested, the judge of the
4 county court may, on the judge's own motion, or shall, on the motion
5 of any party to the proceeding, according to the motion:

6 (1) request the assignment of a statutory probate
7 court judge to hear the contested matter, as provided by Section
8 25.0022, Government Code; or

9 (2) transfer the contested matter to the district
10 court, which may then hear the contested matter as if originally
11 filed in the district court.

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

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

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

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

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

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

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

22 (g) The county court shall continue to exercise
23 jurisdiction over the management of the estate, other than a
24 contested matter, until final disposition of the contested matter
25 is made in accordance with this section. After a contested matter
26 is transferred to a district court, any matter related to the
27 probate proceeding may be brought in the district court. The

1 district court in which a matter related to the probate proceeding
2 is filed may, on its own motion or on the motion of any party, find
3 that the matter is not a contested matter and transfer the matter to
4 the county court with jurisdiction of the management of the estate.

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

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

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

1 at law.

2 (b) A county court at law to which a proceeding is
3 transferred under this section may hear the proceeding as if
4 originally filed in that court. If only a contested matter in the
5 proceeding is transferred, on the resolution of the matter, the
6 matter shall be returned to the county court for further
7 proceedings not inconsistent with the orders of the county court at
8 law.

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

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

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

26 (1) an action by or against a trustee;

27 (2) an action involving an inter vivos trust,

1 testamentary trust, or charitable trust;

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

5 (4) an action to determine the validity of a power of
6 attorney or to determine an agent's rights, powers, or duties under
7 a power of attorney.

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

11 (1) a personal injury, survival, or wrongful death
12 action by or against a person in the person's capacity as a personal
13 representative;

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

15 (3) an action involving an inter vivos trust,
16 testamentary trust, or charitable trust;

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

20 (5) an action against an agent or former agent under a
21 power of attorney arising out of the agent's performance of the
22 duties of an agent; and

23 (6) an action to determine the validity of a power of
24 attorney or to determine an agent's rights, powers, or duties under
25 a power of attorney.

26 (c) Section 5B(a), Texas Probate Code, is amended to read as
27 follows:

1 (a) A judge of a statutory probate court, on the motion of a
2 party to the action or on the motion of a person interested in an
3 estate, may transfer to the judge's ~~[his]~~ court from a district,
4 county, or statutory court a cause of action related to a probate
5 proceeding ~~[appertaining to or incident to an estate]~~ pending in
6 the statutory probate court or a cause of action in which a personal
7 representative of an estate pending in the statutory probate court
8 is a party and may consolidate the transferred cause of action with
9 the other proceedings in the statutory probate court relating to
10 that estate.

11 (d) Section 25.0022(i), Government Code, is amended to read
12 as follows:

13 (i) A judge assigned under this section has the
14 jurisdiction, powers, and duties given by Sections 4A, 4C, 4F, 4G,
15 4H ~~[5, 5A]~~, 5B, 606, 607, and 608, Texas Probate Code, to statutory
16 probate court judges by general law.

17 (e) Section 25.1132(c), Government Code, is amended to read
18 as follows:

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

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

23 (2) family law cases and related proceedings;

24 (3) contested probate matters under Section 4D(a)
25 ~~[5(b)]~~, Texas Probate Code; and

26 (4) contested guardianship matters under Section
27 606(b), Texas Probate Code.

1 (f) Section 25.1863(b), Government Code, is amended to read
2 as follows:

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

18 (g) Section 123.005(a), Property Code, is amended to read as
19 follows:

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

1 probate, this subsection controls.

2 (h) Sections 4, 5, and 5A, Texas Probate Code, are repealed.

3 (i) The changes in law made by this section apply only to an
4 action filed or a proceeding commenced on or after the effective
5 date of this Act. An action filed or proceeding commenced before
6 the effective date of this Act is governed by the law in effect on
7 the date the action was filed or the proceeding was commenced, and
8 the former law is continued in effect for that purpose.

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

14 CHAPTER 31. GENERAL PROVISIONS

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

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

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

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

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

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

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

6 (7) a will construction suit.

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

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

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

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

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

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

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

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

27 (b) For purposes of this code, in a county in which there is

1 no statutory probate court, but in which there is a county court at
2 law exercising original probate jurisdiction, a matter related to a
3 probate proceeding includes:

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

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

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

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

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

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

21 CHAPTER 32. JURISDICTION

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

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

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

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

6 Sec. 32.002. ORIGINAL JURISDICTION FOR PROBATE
7 PROCEEDINGS. (a) In a county in which there is no statutory
8 probate court or county court at law exercising original probate
9 jurisdiction, the county court has original jurisdiction of probate
10 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. 32.003. JURISDICTION OF CONTESTED PROBATE PROCEEDING
22 IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY
23 COURT. (a) In a county in which there is no statutory probate court
24 or county court at law exercising original probate jurisdiction,
25 when 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) if the matter later becomes
19 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 subtitle. On
3 resolution of a contested matter for which a statutory probate
4 court judge is assigned under this section, including any appeal of
5 the matter, the statutory probate court judge shall return the
6 matter to the county court for further proceedings not inconsistent
7 with the orders of the statutory probate court or court of appeals,
8 as 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 subtitle. On
12 resolution of a contested matter transferred to the district court
13 under this section, including any appeal of the matter, the
14 district court shall return the matter to the county court for
15 further proceedings not inconsistent with the orders of the
16 district court or court of 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. 32.004. JURISDICTION OF CONTESTED PROBATE PROCEEDING
14 IN 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. 32.005. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING
5 IN 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 32.007 or with the jurisdiction of any other court.

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

17 Sec. 32.006. 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. 32.007. CONCURRENT JURISDICTION WITH DISTRICT COURT.

4 A 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 (b) Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H, Texas
22 Probate Code, as added by Section 12 of this Act, are repealed.

23 (c) Except as otherwise provided by this subsection, this
24 section takes effect January 1, 2014. The changes in law made by
25 this section take effect only if H.B. No. 2502, Acts of the 81st
26 Legislature, Regular Session, 2009, is enacted and becomes law. If
27 that bill does not become law, this section has no effect.

1 Explanation: This addition is necessary to amend provisions
2 relating to jurisdiction and venue of probate proceedings and
3 proceedings regarding powers of attorney and certain trusts and to
4 add corresponding provisions to the Estates Code if legislation
5 creating that code is enacted and becomes law.

6 (2) House Rule 13, Section 9(a)(1), is suspended to permit
7 the committee to change, alter, or amend text not in disagreement by
8 substituting the following for the effective date provision of the
9 bill:

10 SECTION 15. Except as otherwise provided by this Act, this
11 Act takes effect September 1, 2009.

12 Explanation: The change in the effective date provision is a
13 technical change made necessary by the addition of SECTION 13 to the
14 bill, as explained in Item (1) of this resolution. The changes in
15 law made by that SECTION take effect January 1, 2014, if certain
16 circumstances are met.