

By: Shapleigh

S.B. No. 666

A BILL TO BE ENTITLED

AN ACT

relating to the administration of charitable trusts.

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

SECTION 1. Subchapter A, Chapter 113, Property Code, is amended by adding Section 113.029 to read as follows:

Sec. 113.029. RELOCATION OF ADMINISTRATION OR PROPERTY OF CHARITABLE TRUST. (a) In this section:

(1) "Charitable entity" has the meaning assigned by Section 123.001.

(2) "Charitable trust" means a trust:

(A) the stated purpose of which is to benefit only one or more charitable entities; and

(B) that qualifies as a charitable entity.

(3) "Trust administration" means the grant-making function of the trust.

(b) Except as provided by this section or specifically authorized by the terms of a trust, the trustee of a charitable trust may not change the location in which the trust administration takes place from a location in this state to a location outside this state.

(c) If the trustee decides to change the location in which the trust is administered from a location in this state to a location outside this state, the trustee shall:

(1) if the settlor is living and not incapacitated:

1 (A) consult the settlor concerning the selection
2 of a new location for the administration of the trust; and

3 (B) submit the selection to the attorney general;
4 or

5 (2) if the settlor is not living or is incapacitated:

6 (A) propose a new location; and

7 (B) submit the proposal to the attorney general.

8 (d) The trustee may file an action in the district court or
9 statutory probate court in which the trust was created seeking a
10 court order authorizing the trustee to change the location in which
11 the trust is administered to a location outside this state. The
12 court may exercise its equitable powers to effectuate the original
13 purpose of the trust.

14 (e) Except as provided by Subsection (b), the location in
15 which the administration of the trust takes place may not be changed
16 to a location outside this state unless:

17 (1) the charitable purposes of the trust cannot be
18 adequately fulfilled unless the trust administration is moved; and

19 (2) a district court or statutory probate court
20 authorizes the relocation.

21 (f) The attorney general may bring an action to enforce the
22 provisions of this section. If a trustee of a charitable trust
23 fails to comply with the provisions of this section, the district
24 court or statutory probate court in the county in which the trust
25 administration was originally located may remove the trustee and
26 appoint a new trustee. Costs of a proceeding to remove a trustee,
27 including reasonable attorney's fees, may be assessed against the

1 removed trustee. This provision is in addition to and does not
2 supersede the provisions of Chapter 123.

3 (g) This section does not affect a trustee's authority to
4 sell real estate owned by a charitable trust.

5 SECTION 2. Except as otherwise provided by a will, the terms
6 of a trust, or this Act, the changes in law made by this Act apply
7 to:

8 (1) a trust existing or created on or after September
9 1, 2009;

10 (2) the estate of a decedent who dies before September
11 1, 2009, if the probate or administration of the estate is pending
12 on or after September 1, 2009; and

13 (3) the estate of a decedent who dies on or after
14 September 1, 2009.

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