

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.

(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 municipality or county in which:

(1) the trust is administered; or

(2) the trust property is situated.

(c) If the trustee determines that the municipality or county in which the trust is administered or the trust property is situated must be changed to prevent the charitable purposes of the trust from being frustrated, the trustee shall:

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

(A) consult the settlor concerning the selection

1 of a new location for the administration of the trust or the trust
2 property; and

3 (B) if the settlor approves a new location in
4 writing, submit the selection to the attorney general under
5 Subsection (e); or

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

7 (A) propose a new location; and

8 (B) submit the proposal to the attorney general
9 under Subsection (d).

10 (d) The trustee shall send notice to the attorney general of
11 a new location for the administration of the trust or the trust
12 property selected or proposed under Subsection (c). If the settlor
13 has not consented to the new location in writing and the attorney
14 general determines that the new location does not adequately serve
15 the charitable purposes of the trust, not later than the 21st day
16 after the date the attorney general receives notice of the
17 selection, the attorney general shall request in writing that a
18 district court in the county in which the trust was created review
19 the selection. If the court agrees with the attorney general's
20 determination, the court shall select the location for the
21 administration of the trust or the trust property. If the court
22 finds that the attorney general's request for review is
23 unreasonable, the administration of the trust or the trust property
24 may be relocated as proposed by the trustee, and the court may
25 require the attorney general to pay all court costs of the parties
26 involved.

27 (e) If the trustee and the settlor cannot agree on a

1 selection of a new location under Subsection (c), the trustee shall
2 send notice of that fact to the attorney general not later than the
3 21st day after the date the trustee determines that an agreement
4 cannot be reached. The attorney general shall refer the matter to a
5 district court in the county in which the trust was created. The
6 trustee and the settlor may each recommend to the court a
7 replacement location, and the court shall select the replacement
8 location.

9 (f) The administration of the trust or the trust property
10 may not be relocated to another state under this section unless:

11 (1) the settlor consents to the relocation in writing
12 under Subsection (c); or

13 (2) the charitable purposes of the trust cannot be
14 adequately fulfilled unless the administration of the trust or the
15 trust property is moved to another state and:

16 (A) the attorney general consents to the
17 relocation; or

18 (B) a district court authorizes the relocation.

19 (g) This section does not affect a trustee's authority to
20 sell real estate owned by a charitable trust. The proceeds of real
21 estate sold by a charitable trust must be situated at the same
22 location as other money owned by the trust.

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

26 (1) a trust existing or created on or after January 1,
27 2010;

1 (2) the estate of a decedent who dies before January 1,
2 2010, if the probate or administration of the estate is pending on
3 or after January 1, 2010; and

4 (3) the estate of a decedent who dies on or after
5 January 1, 2010.

6 SECTION 3. This Act takes effect January 1, 2010.