

By: Duncan

S.B. No. 1111

A BILL TO BE ENTITLED

AN ACT

relating to the liability of and legal fees for a court-appointed trustee of certain facilities.

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

SECTION 1. Subchapter D, Chapter 242, Health and Safety Code, is amended by adding Section 242.0947 to read as follows:

Sec. 242.0947. LIMITATION ON CIVIL LIABILITY AND PAYMENT OF REASONABLE LEGAL FEES ACTUALLY INCURRED BY CERTAIN TRUSTEES.

(a) This section applies only to a trustee of a nursing home or assisted living facility appointed under Section 242.094.

(b) A trustee is not liable for civil damages for an action made in good faith in the official scope of the trustee's duties.

(c) The trustee is entitled to payment for reasonable legal fees actually incurred by the trustee in fulfilling the trustee's responsibilities.

(d) Notwithstanding Section 242.096(b) or any other law, a trustee of a home may use the emergency assistance funds under Section 242.096 to pay for reasonable legal fees actually incurred by the trustee in fulfilling the trustee's responsibilities. Notwithstanding Section 242.096(c) or any other law, a court may order the department to disburse emergency assistance funds to the trustee to pay for reasonable legal fees actually incurred by the trustee in fulfilling the trustee's responsibilities.

(e) Notwithstanding Section 242.0965(b) or any other law, a

1 trustee of an assisted living facility may use the emergency
2 assistance funds under Section 242.0965 to pay for reasonable legal
3 fees actually incurred by the trustee in fulfilling the trustee's
4 responsibilities. Notwithstanding Section 242.0965(c) or any
5 other law, a court may order the department to disburse emergency
6 assistance funds to the trustee to pay for reasonable legal fees
7 actually incurred by the trustee in fulfilling the trustee's
8 responsibilities.

9 SECTION 2. Subchapter D, Chapter 252, Health and Safety
10 Code, is amended by adding Section 252.0935 to read as follows:

11 Sec. 252.0935. LIMITATION ON CIVIL LIABILITY AND PAYMENT OF
12 LEGAL FEES ACTUALLY INCURRED BY CERTAIN TRUSTEES. (a) This
13 section applies only to a trustee of a facility who is appointed
14 under Section 252.093.

15 (b) A trustee is not liable for civil damages for an action
16 made in good faith in the official scope of the trustee's duties.

17 (c) Notwithstanding Section 252.095(c) or any other law, a
18 trustee may use the emergency assistance funds under Section
19 252.095 to pay for reasonable legal fees actually incurred by the
20 trustee in fulfilling the trustee's responsibilities.
21 Notwithstanding Section 252.095(d) or any other law, a court may
22 order the department to disburse emergency assistance funds to the
23 trustee to pay for reasonable legal fees actually incurred by the
24 trustee in fulfilling the trustee's responsibilities.

25 SECTION 3. (a) Subsection (b), Section 242.0947, and
26 Subsection (b), Section 252.0935, Health and Safety Code, as added
27 by this Act, apply only to an act by a trustee that occurs on or

1 after the effective date of this Act. An act that occurred before
2 the effective date of this Act is governed by the law in effect when
3 the act occurred, and the former law is continued in effect for that
4 purpose.

5 (b) Subsections (c), (d), and (e), Section 242.0947, and
6 Subsection (c), Section 252.0935, Health and Safety Code, as added
7 by this Act, apply only to legal fees incurred by a trustee on or
8 after the effective date of this Act. Legal fees incurred by a
9 trustee before the effective date of this Act are governed by the
10 law in effect when the fees were incurred, and the former law is
11 continued in effect for that purpose.

12 SECTION 4. This Act takes effect September 1, 2009.