

1-1 By: Duncan S.B. No. 1111
1-2 (In the Senate - Filed February 24, 2009; March 13, 2009,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 26, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 26, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1111 By: Duncan

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the liability of and legal fees for a court-appointed
1-11 trustee of certain facilities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter D, Chapter 242, Health and Safety
1-14 Code, is amended by adding Section 242.0947 to read as follows:

1-15 Sec. 242.0947. LIMITATION ON CIVIL LIABILITY AND PAYMENT OF
1-16 REASONABLE LEGAL FEES ACTUALLY INCURRED BY CERTAIN TRUSTEES.

1-17 (a) This section applies only to a trustee of a nursing home or
1-18 assisted living facility appointed under Section 242.094.

1-19 (b) A trustee is not liable for civil damages for an action
1-20 made in good faith in the official scope of the trustee's duties.

1-21 (c) The trustee is entitled to payment for reasonable legal
1-22 fees actually incurred by the trustee in fulfilling the trustee's
1-23 responsibilities.

1-24 (d) Notwithstanding Section 242.096(b) or any other law, a
1-25 trustee of a home may use the emergency assistance funds under
1-26 Section 242.096 to pay for reasonable legal fees actually incurred
1-27 by the trustee in fulfilling the trustee's responsibilities.
1-28 Notwithstanding Section 242.096(c) or any other law, a court may
1-29 order the department to disburse emergency assistance funds to the
1-30 trustee to pay for reasonable legal fees actually incurred by the
1-31 trustee in fulfilling the trustee's responsibilities.

1-32 (e) Notwithstanding Section 242.0965(b) or any other law, a
1-33 trustee of an assisted living facility may use the emergency
1-34 assistance funds under Section 242.0965 to pay for reasonable legal
1-35 fees actually incurred by the trustee in fulfilling the trustee's
1-36 responsibilities. Notwithstanding Section 242.0965(c) or any
1-37 other law, a court may order the department to disburse emergency
1-38 assistance funds to the trustee to pay for reasonable legal fees
1-39 actually incurred by the trustee in fulfilling the trustee's
1-40 responsibilities.

1-41 SECTION 2. Subchapter D, Chapter 252, Health and Safety
1-42 Code, is amended by adding Section 252.0935 to read as follows:

1-43 Sec. 252.0935. LIMITATION ON CIVIL LIABILITY AND PAYMENT OF
1-44 LEGAL FEES ACTUALLY INCURRED BY CERTAIN TRUSTEES. (a) This
1-45 section applies only to a trustee of a facility who is appointed
1-46 under Section 252.093.

1-47 (b) A trustee is not liable for civil damages for an action
1-48 made in good faith in the official scope of the trustee's duties.

1-49 (c) Notwithstanding Section 252.095(c) or any other law, a
1-50 trustee may use the emergency assistance funds under Section
1-51 252.095 to pay for reasonable legal fees actually incurred by the
1-52 trustee in fulfilling the trustee's responsibilities.
1-53 Notwithstanding Section 252.095(d) or any other law, a court may
1-54 order the department to disburse emergency assistance funds to the
1-55 trustee to pay for reasonable legal fees actually incurred by the
1-56 trustee in fulfilling the trustee's responsibilities.

1-57 SECTION 3. (a) Subsection (b), Section 242.0947, and
1-58 Subsection (b), Section 252.0935, Health and Safety Code, as added
1-59 by this Act, apply only to an act by a trustee that occurs on or
1-60 after the effective date of this Act. An act that occurred before
1-61 the effective date of this Act is governed by the law in effect when
1-62 the act occurred, and the former law is continued in effect for that
1-63 purpose.

2-1 (b) Subsections (c), (d), and (e), Section 242.0947, and
2-2 Subsection (c), Section 252.0935, Health and Safety Code, as added
2-3 by this Act, apply only to legal fees incurred by a trustee on or
2-4 after the effective date of this Act. Legal fees incurred by a
2-5 trustee before the effective date of this Act are governed by the
2-6 law in effect when the fees were incurred, and the former law is
2-7 continued in effect for that purpose.

2-8 SECTION 4. This Act takes effect September 1, 2009.

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