

By: Ogden

S.B. No. 2350

A BILL TO BE ENTITLED

AN ACT

relating to the payment and distribution of consumer assistance funds in an action by the attorney general.

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

SECTION 1. Title 3, Civil Practice and Remedies Code, is amended by adding Chapter 67 to read as follows:

CHAPTER 67. CONSUMER ASSISTANCE FUNDS IN ACTION BY ATTORNEY

GENERAL

Sec. 67.001. CONSUMER ASSISTANCE FUNDS. In an action brought by the attorney general arising from conduct that violates a consumer protection, public health, or general welfare law, the court may enter a judgment or order for payment of restitution to be distributed by the attorney general as provided by Section 67.003 if the court determines that, based on the facts and circumstances of the case:

(1) it is impossible or impracticable to identify injured parties;

(2) it is impossible or impracticable to determine the degree to which each claimant was injured and entitled to recover;

or

(3) the cost of administering a claim procedure is prohibitive due to a low probability of recovery for each claimant.

Sec. 67.002. CREATION OF CONSUMER ASSISTANCE ACCOUNT.

(a) The consumer assistance account is created as a restitution

1 account in the departmental suspense account in the state treasury.
2 The account consists of consumer assistance funds paid under a
3 court judgment or order as provided by Section 67.001. Civil
4 penalties, costs, or attorney's fees shall not be deposited in this
5 account. Funds in the account are held in trust for the benefit of
6 charitable entities as provided by Section 67.003. The attorney
7 general shall administer the fund.

8 (b) The attorney general shall retain funds that are
9 designated as consumer assistance funds under a court judgment or
10 order and shall deposit the funds in the consumer assistance
11 account.

12 Sec. 67.003. USE OF CONSUMER ASSISTANCE FUNDS. (a) In
13 this section "charitable entity" has the meaning assigned by
14 Section 123.001, Property Code.

15 (b) The attorney general shall distribute restitution paid
16 under a court judgment or order as provided by this chapter to one
17 or more charitable entities to fund programs that provide
18 assistance to consumers. The distribution must be in accordance
19 with the court judgment or order. The attorney general shall
20 notify:

21 (1) the Legislative Budget Board before the
22 distribution; and

23 (2) the court when the distribution is complete.

24 Sec. 67.004. RULEMAKING AUTHORITY. The attorney general
25 may adopt rules as necessary to implement this chapter.

26 Sec. 67.005. COMMON LAW CY PRES. The provisions of this
27 chapter do not diminish the common law authority or other statutory

1 authority of the attorney general to seek and obtain cy pres
2 distribution from a court.

3 SECTION 2. This Act applies to funds paid under a court
4 judgment as provided by Section 67.001, Civil Practice and Remedies
5 Code, as added by this Act, that are held in the attorney general's
6 departmental suspense account on or after the effective date of
7 this Act, notwithstanding the fact that the funds were paid into
8 that account before the effective date of this Act.

9 SECTION 3. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2009.