

1-1 By: Ogden S.B. No. 2350
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read
1-3 first time and referred to Committee on Finance; May 6, 2009,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 8, Nays 0; May 6, 2009, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 2350 By: Ogden

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the payment and distribution of consumer assistance
1-10 funds in an action by the attorney general.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Title 3, Civil Practice and Remedies Code, is
1-13 amended by adding Chapter 67 to read as follows:

1-14 CHAPTER 67. CONSUMER ASSISTANCE FUNDS IN ACTION BY ATTORNEY

1-15 GENERAL

1-16 Sec. 67.001. CONSUMER ASSISTANCE FUNDS. In an action
1-17 brought by the attorney general arising from conduct that violates
1-18 a consumer protection, public health, or general welfare law, the
1-19 court may enter a judgment or order for payment of funds to be
1-20 distributed by the attorney general as provided by Section 67.003
1-21 if:

1-22 (1) it is impracticable to identify injured parties;

1-23 or

1-24 (2) the cost of administering a claim procedure is
1-25 prohibitive due to a low probability of recovery for each claimant.

1-26 Sec. 67.002. CREATION OF CONSUMER ASSISTANCE ACCOUNT.

1-27 (a) The consumer assistance account is created as a restitution
1-28 account in the departmental suspense account in the state treasury.
1-29 The account consists of consumer assistance funds paid under a
1-30 court judgment or order as provided by Section 67.001. Funds in the
1-31 account are held in trust for the benefit of charitable entities as
1-32 provided by Section 67.003. The attorney general shall administer
1-33 the fund.

1-34 (b) The attorney general shall retain funds that are
1-35 designated as consumer assistance funds under a court judgment or
1-36 order and shall deposit the funds in the consumer assistance
1-37 account.

1-38 Sec. 67.003. USE OF CONSUMER ASSISTANCE FUNDS. (a) In
1-39 this section "charitable entity" has the meaning assigned by
1-40 Section 123.001, Property Code.

1-41 (b) The attorney general shall distribute funds paid under a
1-42 court judgment or order as provided by this chapter to one or more
1-43 charitable entities to fund programs that provide assistance to
1-44 consumers. The distribution must be in accordance with the court
1-45 judgment or order. The attorney general shall notify:

1-46 (1) the Legislative Budget Board before the
1-47 distribution; and

1-48 (2) the court when the distribution is complete.

1-49 Sec. 67.004. RULEMAKING AUTHORITY. The attorney general
1-50 may adopt rules as necessary to implement this chapter.

1-51 Sec. 67.005. COMMON LAW CY PRES. The provisions of this
1-52 chapter do not diminish the common law authority or other statutory
1-53 authority of the attorney general to seek and obtain cy pres
1-54 distribution from a court.

1-55 SECTION 2. This Act applies to funds paid under a court
1-56 judgment as provided by Section 67.001, Civil Practice and Remedies
1-57 Code, as added by this Act, that are held in the attorney general's
1-58 departmental suspense account on or after the effective date of
1-59 this Act, notwithstanding the fact that the funds were paid into
1-60 that account before the effective date of this Act.

1-61 SECTION 3. This Act takes effect immediately if it receives
1-62 a vote of two-thirds of all the members elected to each house, as
1-63 provided by Section 39, Article III, Texas Constitution. If this

2-1 Act does not receive the vote necessary for immediate effect, this
2-2 Act takes effect September 1, 2009.

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