

By: Carona

S.B. No. 342

A BILL TO BE ENTITLED

AN ACT

relating to the power of the office of the attorney general to make certain examinations and inquiries.

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

SECTION 1. Section 12.151, Business Organizations Code, is amended to read as follows:

Sec. 12.151. AUTHORITY OF ATTORNEY GENERAL TO EXAMINE BOOKS AND RECORDS AND MAKE CERTAIN INQUIRIES. (a) Each filing entity and foreign filing entity shall permit the attorney general to inspect, examine, and make copies, as the attorney general considers necessary in the performance of a power or duty of the attorney general, of any record of the entity. A record of the entity includes minutes and a book, account, letter, memorandum, e-mail, document, check, voucher, telegram, constitution, and bylaw.

(b) If the attorney general has reason to believe that a filing entity or foreign filing entity is engaging in, has engaged in, or is about to engage in an unlawful act or practice or that it would be in the public interest to conduct an investigation to ascertain whether the entity is engaging in, has engaged in, or is about to engage in an unlawful act or practice, the attorney general may:

(1) require an employee or agent of the entity to file on forms prescribed by the attorney general a statement or report in writing, under oath or otherwise, as to all the facts and

1 circumstances concerning the alleged unlawful act or practice and
2 other data and information the attorney general considers
3 necessary; and

4 (2) examine under oath any person in connection with
5 the alleged unlawful act or practice.

6 SECTION 2. The heading to Chapter 123, Property Code, is
7 amended to read as follows:

8 CHAPTER 123. ATTORNEY GENERAL PARTICIPATION IN PROCEEDINGS
9 INVOLVING AND INVESTIGATION OF MATTERS CONCERNING CHARITABLE
10 TRUSTS

11 SECTION 3. Chapter 123, Property Code, is amended by adding
12 Section 123.007 to read as follows:

13 Sec. 123.007. AUTHORITY OF ATTORNEY GENERAL TO EXAMINE
14 BOOKS AND RECORDS AND MAKE CERTAIN INQUIRIES. (a) Each charitable
15 entity or fiduciary or managerial agent of a charitable trust shall
16 permit the attorney general to inspect, examine, and make copies,
17 as the attorney general considers necessary in the performance of a
18 power or duty of the attorney general with respect to charitable
19 entities and trusts, of any record of the charitable entity or
20 trust. A record of the charitable entity or trust includes minutes
21 and a book, account, letter, memorandum, e-mail, document, check,
22 voucher, telegram, constitution, and bylaw.

23 (b) If the attorney general has reason to believe that a
24 person is engaging in, has engaged in, or is about to engage in an
25 unlawful act or practice with respect to a charitable trust or that
26 it would be in the public interest to conduct an investigation to
27 ascertain whether the person is engaging in, has engaged in, or is

1 about to engage in an unlawful act or practice with respect to a
2 charitable trust, the attorney general may:

3 (1) require the person to file on forms prescribed by
4 the attorney general a statement or report in writing, under oath or
5 otherwise, as to all the facts and circumstances concerning the
6 alleged unlawful act or practice and other data and information as
7 the attorney general considers necessary; and

8 (2) examine under oath any person in connection with
9 the alleged unlawful act or practice.

10 SECTION 4. This Act takes effect September 1, 2011.