

A BILL TO BE ENTITLED

AN ACT

relating to the liability of and payment of legal fees for court-appointed trustees 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. IMMUNITY FROM CIVIL LIABILITY; PAYMENT OF CERTAIN LEGAL FEES INCURRED BY TRUSTEE. (a) This section applies only to a trustee appointed under Section 242.094 to operate:

(1) a nursing or convalescent home; or

(2) an assisted living facility as authorized under Section 247.003(b).

(b) A trustee is not liable for civil damages for an act or omission committed 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 duties.

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

1 fees actually incurred by the trustee in fulfilling the trustee's
2 duties.

3 (e) Notwithstanding Section 242.0965(b), a trustee of an
4 assisted living facility may use the emergency assistance funds
5 available under Section 242.0965 to pay reasonable legal fees
6 actually incurred by the trustee in fulfilling the trustee's
7 duties. Notwithstanding Section 242.0965(c), a court may order the
8 department to disburse emergency assistance funds to the trustee to
9 pay reasonable legal fees actually incurred by the trustee in
10 fulfilling the trustee's duties.

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

13 Sec. 252.0935. IMMUNITY FROM CIVIL LIABILITY; PAYMENT OF
14 CERTAIN LEGAL FEES INCURRED BY TRUSTEE. (a) This section applies
15 only to a trustee appointed under Section 252.093 to operate a
16 facility.

17 (b) A trustee is not liable for civil damages for an act or
18 omission committed in good faith in the official scope of the
19 trustee's duties.

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

23 (d) Notwithstanding Section 252.095(c), a trustee may use
24 the emergency assistance funds available under Section 252.095 to
25 pay reasonable legal fees actually incurred by the trustee in
26 fulfilling the trustee's duties. Notwithstanding Section
27 252.095(d), a court may order the department to disburse emergency

1 assistance funds to the trustee to pay reasonable legal fees
2 actually incurred by the trustee in fulfilling the trustee's
3 duties.

4 SECTION 3. (a) Subsection (b), Section 242.0947, and
5 Subsection (b), Section 252.0935, Health and Safety Code, as added
6 by this Act, apply only to an act or omission by a trustee that
7 occurs on or after the effective date of this Act. An act or
8 omission that occurred before the effective date of this Act is
9 governed by the law in effect immediately before the effective date
10 of this Act, and the former law is continued in effect for that
11 purpose.

12 (b) Subsections (c), (d), and (e), Section 242.0947, and
13 Subsections (c) and (d), Section 252.0935, Health and Safety Code,
14 as added by this Act, apply only to legal fees incurred by a trustee
15 on or after the effective date of this Act. Legal fees incurred by a
16 trustee before the effective date of this Act are governed by the
17 law in effect when the fees were incurred, and the former law is
18 continued in effect for that purpose.

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