

By: S. Davis of Harris

H.B. No. 2380

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a provision in a will or trust that would cause a
3 forfeiture of or void an interest for bringing any court action,
4 including contesting the will or trust.

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

6 ARTICLE 1. CHANGES TO TEXAS PROBATE CODE

7 SECTION 1.01. Section 64, Texas Probate Code, is amended to
8 read as follows:

9 Sec. 64. FORFEITURE CLAUSE. A provision in a will that
10 would cause a forfeiture of or void a devise or provision in favor
11 of a person for bringing any court action, including contesting a
12 will, is enforceable unless in a court action determining whether
13 the forfeiture clause should be enforced, the person who brought
14 the action contrary to the forfeiture clause establishes by a
15 preponderance of the evidence that [~~unenforceable if~~]:

- 16 (1) just cause existed for bringing the action; and
17 (2) the action was brought and maintained in good
18 faith.

19 ARTICLE 2. CHANGES TO ESTATES CODE

20 SECTION 2.01. Section 254.005, Estates Code, as effective
21 January 1, 2014, is amended to read as follows:

22 Sec. 254.005. FORFEITURE CLAUSE. A provision in a will
23 that would cause a forfeiture of or void a devise or provision in
24 favor of a person for bringing any court action, including

1 contesting a will, is enforceable unless in a court action
2 determining whether the forfeiture clause should be enforced, the
3 person who brought the action contrary to the forfeiture clause
4 establishes by a preponderance of the evidence that [~~unenforceable~~
5 ~~if~~]:

- 6 (1) just cause existed for bringing the action; and
7 (2) the action was brought and maintained in good
8 faith.

9 SECTION 2.02. Section 64, Texas Probate Code, as amended by
10 Article 1 of this Act, is repealed.

11 SECTION 2.03. This article takes effect January 1, 2014.

12 ARTICLE 3. CHANGES TO PROPERTY CODE

13 SECTION 3.01. Section 112.038, Property Code, is amended to
14 read as follows:

15 Sec. 112.038. FORFEITURE CLAUSE. A provision in a trust
16 that would cause a forfeiture of or void an interest for bringing
17 any court action, including contesting a trust, is enforceable
18 unless in a court action determining whether the forfeiture clause
19 should be enforced, the person who brought the action contrary to
20 the forfeiture clause establishes by a preponderance of the
21 evidence that [~~unenforceable if~~]:

- 22 (1) just cause existed for bringing the action; and
23 (2) the action was brought and maintained in good
24 faith.

25 SECTION 3.02. Section 112.038, Property Code, as amended by
26 this Act, applies to a court action commenced on or after the
27 effective date of this Act. An action commenced before the

1 effective date of this Act is governed by the law applicable to the
2 action immediately before the effective date of this Act, and that
3 law is continued in effect for that purpose.

4 ARTICLE 4. EFFECTIVE DATE

5 SECTION 4.01. Except as otherwise provided by this Act,
6 this Act takes effect September 1, 2013.