

By: S. Davis of Harris

H.B. No. 2380

A BILL TO BE ENTITLED

AN ACT

relating to an allowance of challenging a will.

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

SECTION 1. Section 64, Probate Code, is amended to read as follows:

Sec. 64. FORFEITURE CLAUSE. A provision in a will that would cause a forfeiture of or void a devise or provision in favor of a person for bringing any court action, including contesting a will, is ~~un~~enforceable ~~if~~ unless the court finds that the person challenging the forfeiture clause establishes by a preponderance of the evidence that:

(1) just cause existed for bringing the action; and

(2) the action was brought and maintained in good faith.

SECTION 2. Section 112.038, Property Code, is amended to read as follows:

Sec. 112.038. FORFEITURE CLAUSE. A provision in a trust that would cause a forfeiture of or void an interest for bringing any court action, including contesting a trust, is ~~un~~enforceable ~~if~~ unless the court finds that the person challenging the forfeiture clause establishes by a preponderance of the evidence that:

(1) just cause existed for bringing the action; and

(2) the action was brought and maintained in good

1 faith.

2 SECTION 3. Section 254.005, Estates Code, is amended to
3 read as follows:

4 Sec. 254.005. FORFEITURE CLAUSE. A provision in a will that
5 would cause a forfeiture of or void a devise or provision in favor
6 of a person for bringing any court action, including contesting a
7 will, is ~~un~~enforceable ~~if~~ unless the court finds that the
8 person challenging the forfeiture clause establishes by a
9 preponderance of the evidence that:

- 10 (1) just cause existed for bringing the action; and
11 (2) the action was brought and maintained in good
12 faith.

13 SECTION 4. This Act applies to all actions commenced on or
14 after the effective date of this Act. An action commenced prior to
15 the effective date of this Act is governed by the law as it existed
16 immediately before the effective date of this Act, and that law is
17 continued in effect for that purpose.

18 SECTION 5. This Act takes effect September 1, 2013.