

1-1 By: S. Davis of Harris (Senate Sponsor - Taylor) H.B. No. 2380
1-2 (In the Senate - Received from the House May 6, 2013;
1-3 May 7, 2013, read first time and referred to Committee on State
1-4 Affairs; May 15, 2013, reported favorably by the following vote:
1-5 Yeas 8, Nays 0; May 15, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to a provision in a will or trust that would cause a
1-20 forfeiture of or void an interest for bringing any court action,
1-21 including contesting the will or trust.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 ARTICLE 1. CHANGES TO TEXAS PROBATE CODE

1-24 SECTION 1.01. Section 64, Texas Probate Code, is amended to
1-25 read as follows:

1-26 Sec. 64. FORFEITURE CLAUSE. A provision in a will that
1-27 would cause a forfeiture of or void a devise or provision in favor
1-28 of a person for bringing any court action, including contesting a
1-29 will, is enforceable unless in a court action determining whether
1-30 the forfeiture clause should be enforced, the person who brought
1-31 the action contrary to the forfeiture clause establishes by a
1-32 preponderance of the evidence that [~~unenforceable if~~]:

1-33 (1) just cause existed for bringing the action; and
1-34 (2) the action was brought and maintained in good
1-35 faith.

1-36 ARTICLE 2. CHANGES TO ESTATES CODE

1-37 SECTION 2.01. Section 254.005, Estates Code, as effective
1-38 January 1, 2014, is amended to read as follows:

1-39 Sec. 254.005. FORFEITURE CLAUSE. A provision in a will
1-40 that would cause a forfeiture of or void a devise or provision in
1-41 favor of a person for bringing any court action, including
1-42 contesting a will, is enforceable unless in a court action
1-43 determining whether the forfeiture clause should be enforced, the
1-44 person who brought the action contrary to the forfeiture clause
1-45 establishes by a preponderance of the evidence that [~~unenforceable~~
1-46 if]:

1-47 (1) just cause existed for bringing the action; and
1-48 (2) the action was brought and maintained in good
1-49 faith.

1-50 SECTION 2.02. Section 64, Texas Probate Code, as amended by
1-51 Article 1 of this Act, is repealed.

1-52 SECTION 2.03. This article takes effect January 1, 2014.

1-53 ARTICLE 3. CHANGES TO PROPERTY CODE

1-54 SECTION 3.01. Section 112.038, Property Code, is amended to
1-55 read as follows:

1-56 Sec. 112.038. FORFEITURE CLAUSE. A provision in a trust
1-57 that would cause a forfeiture of or void an interest for bringing
1-58 any court action, including contesting a trust, is enforceable
1-59 unless in a court action determining whether the forfeiture clause
1-60 should be enforced, the person who brought the action contrary to
1-61 the forfeiture clause establishes by a preponderance of the

2-1 evidence that [unenforceable if]:

- 2-2 (1) just cause existed for bringing the action; and
- 2-3 (2) the action was brought and maintained in good
- 2-4 faith.

2-5 SECTION 3.02. Section 112.038, Property Code, as amended by
2-6 this Act, applies to a court action commenced on or after the
2-7 effective date of this Act. An action commenced before the
2-8 effective date of this Act is governed by the law applicable to the
2-9 action immediately before the effective date of this Act, and that
2-10 law is continued in effect for that purpose.

2-11 ARTICLE 4. EFFECTIVE DATE

2-12 SECTION 4.01. Except as otherwise provided by this Act,
2-13 this Act takes effect September 1, 2013.

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