

AN ACT

relating to noncharitable trusts without an ascertainable beneficiary.

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

SECTION 1. Section 111.004(4), Property Code, is amended to read as follows:

(4) "Express trust" means a fiduciary relationship with respect to property which arises as a manifestation by the settlor of an intention to create the relationship and which subjects the person holding title to the property to equitable duties to deal with the property:

(A) for the benefit of another person; or

(B) for a particular purpose, in the case of a trust subject to Subchapter F.

SECTION 2. Chapter 112, Property Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. NONCHARITABLE TRUST WITHOUT ASCERTAINABLE

BENEFICIARY

Sec. 112.121. VALIDITY OF TRUST; APPLICABILITY. (a) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary. A noncharitable purpose may include seeking economic or noneconomic benefits.

(b) This subchapter does not apply to a trust created under Section 112.037.

1 Sec. 112.122. ENFORCEMENT OF TRUST. (a) A trust created
2 under this subchapter must be enforced by one or more persons
3 appointed in the terms of the trust to serve as a trust enforcer.

4 (b) A trust enforcer shall enforce the purpose and terms of
5 the trust. The trust enforcer is not a beneficiary of the trust,
6 but has the rights of a beneficiary provided under this title and
7 the common law of this state, or as otherwise provided by the terms
8 of the trust.

9 (c) A trust enforcer shall exercise any authority granted
10 under the terms of the trust or the provisions of this section as a
11 fiduciary owing a duty to the trust and is entitled to reasonable
12 compensation for serving as trust enforcer.

13 (d) A trust enforcer may consent to, waive, object to, or
14 petition an appropriate court concerning any matter regarding the
15 purpose or administration of the trust.

16 (e) Except as otherwise provided by the terms of the trust,
17 if more than one person is acting as a trust enforcer, any action in
18 that capacity must be decided by the majority vote of the persons
19 acting as trust enforcers. If there are an even number of trust
20 enforcers and a majority vote cannot be established, the decision
21 of the trustee controls.

22 (f) The terms of the trust may provide for the succession of
23 a trust enforcer or a process of appointing any successor trust
24 enforcer.

25 (g) If no person is serving as a trust enforcer for a trust
26 created under this subchapter, a court properly exercising
27 jurisdiction shall appoint one or more persons to serve as the trust

1 enforcer.

2 Sec. 112.123. APPLICATION OR DISTRIBUTION OF TRUST
3 PROPERTY. (a) Property of a trust created under this subchapter
4 may be applied only to the intended purpose of the trust, except to
5 the extent that a court finds that the value of the trust property
6 exceeds the amount required for the intended purpose of the trust.

7 (b) Except as provided by the terms of the trust, property
8 found by a court not to be required for the trust's intended purpose
9 shall be distributed:

10 (1) as provided by the terms of the trust; or

11 (2) if the trust does not provide for the distribution
12 of such property, to the settlor if then living or to the settlor's
13 successors in interest.

14 SECTION 3. Subchapter F, Chapter 112, Property Code, as
15 added by this Act, applies only to a trust created on or after the
16 effective date of this Act.

17 SECTION 4. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2023.

H.B. No. 2333

President of the Senate

Speaker of the House

I certify that H.B. No. 2333 was passed by the House on May 9, 2023, by the following vote: Yeas 137, Nays 3, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2333 was passed by the Senate on May 24, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor