

BILL ANALYSIS

Senate Research Center

H.B. 1475
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Jurisprudence
5/11/1999
Committee Report (Amended)

DIGEST

Currently, a trustee may have difficulty appointing an investment agent for the administration of a trust estate due to the possibility of the trustee being held strictly liable under common law. In addition, a trustee who wishes to bind future beneficiaries to a trust, whether minors or unborn, must do so through litigation. H.B. 1475 would authorize a trustee to employ an investment agent and to delegate investment decisions to the agent, and would provide for a final and binding written instrument to designate a minor or an unborn person as a beneficiary.

PURPOSE

As proposed, H.B. 1475 amends regulations for the management and investment of trust assets.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 113.018, Property Code, to authorize a trustee to employ investment agents in the administration of the trust estate.

SECTION 2. Amends Chapter 113B, Property Code, by adding Section 113.060, as follows:

Sec. 113.060. **AUTHORITY TO DELEGATE INVESTMENT DECISIONS.** Defines "beneficiary." Authorizes a trustee to employ and delegate investment decisions to an investment agent who is responsible for the investment decisions of the agent. Provides that a trustee is not responsible for investment decisions made by the agent, under certain circumstances. Requires the trustee to send written notice to each beneficiary of the trust informing the beneficiary of the intended delegation and identifying the investment agent, by a certain date, and, if the beneficiary is a minor, to the beneficiary's legal guardian.

SECTION 3. Amends Chapter 114B, Property Code, by adding Section 114.032, as follows:

Sec. 114.032. **LIABILITY FOR WRITTEN AGREEMENTS.** Sets forth agreements that are final and binding between a beneficiary and a trustee or certain other individuals. Provides that an unborn or unascertained beneficiary has a substantially identical interest only with a trust beneficiary from whom the unborn or unascertained beneficiary descends. Provides that this section does not apply to a written instrument that modifies or terminates a trust in whole or in part unless the instrument is otherwise permitted by law.

SECTION 4. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 5. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 3.

Amends Section 114.032(e), Property Code, to provide that this section does not apply to a written instrument that modifies or terminates, rather than only terminates, a trust in whole or in part unless the instrument is otherwise permitted by law.