

BILL ANALYSIS

Senate Research Center

H.B. 3001
By: Hartnett (Cain)
Jurisprudence
5/11/1999
Engrossed

DIGEST

Currently, 10 of the 13 community foundations that exist in Texas are organized as nonprofit corporations, with the remaining three organized as community trusts (trusts). A nonprofit corporation can directly control all assets and funds, increasing investment returns while decreasing transaction costs. Trusts have separate institutional trustees handle trust accounts, which may lead to increased costs. It is believed by some that allowing trusts to convert to nonprofit corporations may result in greater operating efficiencies and investment returns. This bill would set forth provisions for the conversion of a trust to a nonprofit corporation.

PURPOSE

As proposed, H.B. 3001 authorizes certain trusts to convert to nonprofit corporations.

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 Chapter 112C, Property Code, by adding Section 112.058, as follows:

Sec. 112.058. CONVERSION OF COMMUNITY TRUST TO NONPROFIT CORPORATION. Defines "assets" and "community trust." Authorizes a community trust with court approval to transfer the assets of the trust to a nonprofit corporation and terminate the trust as provided by this section. Sets forth criteria that a nonprofit corporation is required to meet in order to receive assets transferred from a community trust. Requires the governing body of the community trust (governing body) to: file a petition in a probate court, county court, or district court (court) requesting the transfer of assets and the termination of the trust; send a copy of the governing body's petition and a notice specifying the time and place of the court-scheduled hearing on the petition to each trust settlor and each trustee of each component trust of the community trust; and publish notice requesting permission to convert to a nonprofit corporation. Sets forth suggested text and format of the notice required by Subsection (d)(3). Sets forth procedures for scheduling a hearing on the governing body's petition. Authorizes the court, by order, to require approval from the Internal Revenue Service (IRS) for an asset transfer under this section, on a request from the governing body. Authorizes the assets transfer to occur on the date the governing body files a notice with the court that the IRS has approved the asset transfer (IRS approval notice), if the court orders approval from the IRS. Requires an IRS approval notice to be filed on or before the first anniversary of the date the court's order approving the asset transfer is signed. Provides that the court's order is dissolved if the IRS approval notice is not filed within the prescribed time. Requires a court order transferring the assets of and terminating a community trust to provide that the duties of each trustee of each component trust fund of the community trust are terminated on the date the assets are transferred. Provides that this subsection does not affect the liability of a trustee for acts or omissions that occurred before the duties of the trustee are terminated.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.