

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3434
By: Hartnett (Wentworth)
Jurisprudence
5/19/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 3434 amends the Probate Code to specify that a court may appoint appraisers on its own motion and also adds a standard of good cause shown for the appointment of appraisers. The bill also extends the time for an appointed temporary administrator under Section 131A, Probate Code, to post a bond to three business days. The bill also prohibits a trustee from proceeding with a cause of action in his or her representative capacity over the objection of the beneficiary, with administrative exceptions.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 131A(d), Probate Code, to require the appointee, not later than the third business day after the date of the order, to file with the county clerk a bond in the amount ordered by the court. Defines "business day."

SECTION 2. Amends Section 248, Probate Code, to require the court to make the appointments [of state property appraisers] addressed in this subsection at any time after the grant of letters testamentary or of administration and for good cause on its own motion or on the motion of an interested party. Deletes existing text relating to the manner in which a court makes appointments.

SECTION 3. Amends Subchapter A, Chapter 113, Property Code, by adding Section 113.028, as follows:

Sec. 113.028. CERTAIN CLAIMS AND CAUSES OF ACTION PROHIBITED. (a) Prohibits a trustee from prosecuting or asserting a claim for damages in a cause of action against a party who is not a beneficiary of the trust if each beneficiary of the trust provides written notice to the trustee of the beneficiary's opposition to the trustee's prosecuting or asserting the claim in the cause of action.

(b) Provides that this section does not apply to a cause of action that is prosecuted by a trustee in the trustee's individual capacity.

(c) Provides that the trustee is not liable for failing to prosecute or asserting a claim in a cause of action prohibited by the beneficiaries under Subsection (a).

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2005.