CHAPTER 414

H.B. No. 1969

AN ACT

relating to the enforcement of certain provisions in a will or trust that forfeit or void devises or interests.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter IV, Texas Probate Code, is amended by adding Section 64 to read as follows:

Sec. 64. FORFEITURE CLAUSE. A provision in a will that would cause a forfeiture of a devise or void a devise or provision in favor of a person for bringing any court action, including contesting a will, is unenforceable if:

(1) probable cause exists for bringing the action; and
(2) the action was brought and maintained in good faith.

SECTION 2. Section 111.0035(b), Property Code, is amended to read as follows:

(b) The terms of a trust prevail over any provision of this subtitle, except that the terms of a trust may not limit:

(1) the requirements imposed under Section 112.031;
(2) the applicability of Section 114.007 to an exculpation term of a trust;
(3) the periods of limitation for commencing a judicial proceeding regarding a trust;
(4) a trustee's duty:
   (A) with regard to an irrevocable trust, to respond to a demand for accounting made under Section 113.151 if the demand is from a beneficiary who, at the time of the demand:
      (i) is entitled or permitted to receive distributions from the trust; or
      (ii) would receive a distribution from the trust if the trust terminated at the time of the demand; and
   (B) to act in good faith and in accordance with the purposes of the trust; [6-]
(5) the power of a court, in the interest of justice, to take action or exercise jurisdiction, including the power to:
   (A) modify or terminate a trust or take other action under Section 112.054;
   (B) remove a trustee under Section 113.082;
   (C) exercise jurisdiction under Section 115.001;
   (D) require, dispense with, modify, or terminate a trustee's bond; or
   (E) adjust or deny a trustee's compensation if the trustee commits a breach of trust;
   or
(6) the applicability of Section 112.038.

SECTION 3. Subchapter B, Chapter 112, Property Code, is amended by adding Section 112.038 to read as follows:

Sec. 112.038. FORFEITURE CLAUSE. A provision in a trust that would cause a forfeiture of or void an interest for bringing any court action, including contesting a trust, is unenforceable if:

(1) probable cause exists for bringing the action; and
(2) the action was brought and maintained in good faith.

SECTION 4. (a) Section 64, Texas Probate Code, as added by this Act, applies only to
the estate of a decedent who dies on or after the effective date of this Act. The estate of a
decedent who dies before the effective date of this Act is governed by the law in effect on the
date of the decedent’s death, and the former law is continued in effect for that purpose.
(b) Section 112.038, Property Code, as added by this Act, and Section 111.0035(b), Property
Code, as amended by this Act, apply to a trust existing on or created on or after the effective
date of this Act.
(c) The intent of this Act is to clarify existing law.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the
members elected to each house, as provided by Section 39, Article III, Texas Constitution. If
this Act does not receive the vote necessary for immediate effect, this Act takes effect
September 1, 2009.

Passed by the House on April 28, 2009: Yeas 149, Nays 0, 1 present, not voting; the
House concurred in Senate amendments to H.B. No. 1969 on May 25, 2009: Yeas
142, Nays 0, 1 present, not voting; passed by the Senate, with amendments, on May
21, 2009: Yeas 31, Nays 0.

Approved June 19, 2009.

CHAPTER 415
H.B. No. 1972
AN ACT
relating to contracts and purchases by certain navigation districts.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 60.403(a), Water Code, is amended to read as follows:
(a) A port commission, an authorized designated officer of the port commission, the
executive director of the district or the port authority, or an authorized representative of the
executive director may make routine purchases or contracts in an amount not to exceed
$50,000 [$25,000].

SECTION 2. Section 60.4035(a), Water Code, is amended to read as follows:
(a) Notwithstanding Sections 60.404 and 60.406, the executive director of a port commission
or an officer of a port commission authorized in writing by the executive director of the port
commission may make emergency purchases or contracts in an amount that exceeds $50,000
[$25,000] if necessary:
(1) to preserve or protect the public health and safety of the residents of the district;
(2) to preserve the property of the district in the case of a public calamity;
(3) to repair unforeseen damage to the property of the district; or
(4) to respond to security directives issued by:
(A) the federal Department of Homeland Security, including the Transportation
Security Administration;
(B) the United States Coast Guard;
(C) the federal Department of Transportation, including the Maritime Administration;
or
(D) another federal or state agency responsible for domestic security.

SECTION 3. Sections 60.404(a) and (d), Water Code, are amended to read as follows:
(a) If the materials, supplies, machinery, equipment, or other items to be purchased or
contracted for exceed $50,000 [$25,000], notice shall be published as provided by this section.