

BILL ANALYSIS

Senate Research Center
78R2256 KCR-F

H.B. 1472
By: Hartnett (Harris)
Jurisprudence
4/28/2003
Engrossed

DIGEST AND PURPOSE

Texas has little guidance in relation to the use and function of powers of appointment. As proposed, H.B. 1472 authorizes a donee of the power of appointment to make certain appointments. This bill also authorizes a donee to make appointments that create additional powers of appointment under certain circumstances.

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 181.001, Property Code, by adding Subdivision (1-a) to define "object of the power of appointment."

SECTION 2. Amends Chapter 181, Property Code, by adding Subchapter C, as follows:

SUBCHAPTER C. EXERCISE OF POWERS OF APPOINTMENT

Sec. 181.081. EXTENT OF POWER. Authorizes a donee to exercise a power in any manner consistent with this subchapter, unless an instrument creating a power expressly provides to the contrary.

Sec. 181.082. GENERAL EXERCISE. Authorizes a donee, in exercising a power, to make an appointment:

- (1) of present, future, or present and future interests;
 - (2) with conditions and limitations;
 - (3) with restraints on alienation;
 - (4) of interests to a trustee for the benefit of one or more objects of the power;
- and
- (5) that creates any right existing under common law.

Sec. 181.083. CREATING ADDITIONAL POWERS. (a) Authorizes a donee, in exercising a power, to make appointments that create in the objects of the power additional powers of appointment. Requires the additional powers of appointment to be exercisable in favor of objects of the power who would have been permissible objects under the original donee's power.

- (b) Authorizes a donee, in exercising a power, who may appoint outright to an object of the power to make appointments that create in the object of the power powers exercisable in favor of persons that the original donee may direct, even though the objects of the secondary power of appointment may not have been permissible objects of the original donee's power.

SECTION 3. Effective date: September 1, 2003. Provides that this Act applies only to a power of appointment exercised on or after September 1, 2003, without regard to whether the

instrument creating that power was made before, on, or after that date.