

BILL ANALYSIS

Senate Research Center
79R1475 CLG-F

S.B. 349
By: Wentworth
Jurisprudence
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Section 115.001, Property Code, provides that the district court's jurisdiction over all proceedings concerning trusts is exclusive, except for the jurisdiction conferred by law on a statutory probate court or a court that creates a trust under Section 867, Texas Probate Code. Section 5(h), Texas Probate Code, states that a statutory probate court has jurisdiction over any matter appertaining to an estate or incident to an estate. Pursuant to Section 5A(b), Texas Probate Code, the phrases "appertaining to an estate" and "incident to an estate" include, among other things, the interpretation and administration of testamentary trusts. It is unclear whether the interpretation and administration of testamentary trusts is always appertaining or incident to an estate and, therefore, which court has jurisdiction of matters involving a testamentary trust.

As proposed, S.B. 349 clarifies the issue of jurisdiction by conferring upon the statutory probate court jurisdiction of all actions involving a testamentary trust, regardless of whether the matter is appertaining to or incident to an estate. In counties where there is no statutory probate court, the district court would have exclusive jurisdiction over all actions involving a testamentary trust.

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 5, Texas Probate Code, by adding Subsection (e-1), as follows:

(e-1) Requires all actions involving a testamentary trust, in those counties in which there is a statutory probate court, to be filed and heard in the statutory probate court regardless of whether the matter is appertaining or incident to an estate. Provides that in those counties in which there is no statutory probate court, the district court has exclusive jurisdiction over all actions involving a testamentary trust.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.