

## CHAPTER 149

## S.B. No. 517

An Act relating to the regulation of trusts and gifts to minors; amending the Property Code, as amended, by amending Subsection (a), Section 112.054; Section 113.022; Subsection (a), Section 113.057; and Subsection (j), Section 141.006; and by adding Section 114.064.

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

**SECTION 1.** Subsection (a), Section 112.054, Property Code, as amended, is amended to read as follows:

“(a) On the petition of a trustee or a beneficiary, a court may order that the trustee be changed, that the terms of the trust be modified, that the trustee be directed or permitted to do acts that are not authorized or that are forbidden by the terms of the trust, that the trustee be prohibited from performing acts required by the terms of the trust, or that the trust be terminated in whole or in part, if:

“(1) the *purposes* [~~purpose~~] of the trust *have* [~~has~~] been fulfilled or *have* [~~has~~] become illegal or impossible to fulfill; or

“(2) because of circumstances not known to or anticipated by the settlor, compliance with the terms of the trust would defeat or substantially impair the accomplishment of the purposes of the trust.”

**SECTION 2.** Section 113.022, Property Code, as amended, is amended to read as follows:

“Section 113.022. **POWER TO PROVIDE RESIDENCE AND PAY FUNERAL EXPENSES.** A trustee of a trust that is not a charitable remainder unitrust, annuity trust, or pooled income fund that is intended to qualify for a federal tax deduction under Section 664, Internal Revenue Code, *after giving consideration to the probable intention of the settlor and finding that the trustee's action would be consistent with that probable intention*, may:

“(1) permit real estate held in trust to be occupied by a beneficiary who is currently eligible to receive distributions from the trust estate [~~and who is a surviving spouse or minor child of the settlor~~];

“(2) if reasonably necessary for the maintenance of a [~~the~~] beneficiary *who is currently eligible to receive distributions from the trust estate*, invest trust funds in real property to be used for a home by the beneficiary; and

“(3) in the trustee's discretion, pay funeral expenses of a beneficiary who at the time of the beneficiary's death was eligible to receive distributions from the trust estate.”

**SECTION 3.** Subsection (a), Section 113.057, Property Code, as amended, is amended to read as follows:

“(a) A corporate trustee may deposit trust funds with itself as a permanent investment if authorized by the settlor in the instrument creating the trust or if authorized in a writing delivered to the trustee by a beneficiary currently eligible to receive distributions from a trust created before January 1, 1988 [~~1984~~].”

**SECTION 4.** Subchapter C, Chapter 114, Property Code, is amended by adding Section 114.064 to read as follows:

“Section 114.064. **COSTS.** (a) *In any proceeding under this code the court may make such award of costs and reasonable and necessary attorney's fees as may seem equitable and just.*”

**SECTION 5.** Subsection (j), Section 141.006, Property Code, is amended to read as follows:

“(j) The custodian may perform the same acts regarding custodial real property as an unmarried adult or a trustee under the Texas Trust Code [~~Act~~] (Chapters 111 through 115) may perform in regard to real property.”

**SECTION 6.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 18, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 9, 1985, by the following vote: Yeas 145, Nays 0, one present not voting.

Filed: May 24, 1985, without signature.

Effective: Immediately