

CHAPTER 846

H.B. No. 1200

AN ACT

relating to decedents' estates, multiple-party accounts, and trusts.

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

SECTION 1. Section 37A, Texas Probate Code, is amended to read as follows:

Sec. 37A. MEANS OF EVIDENCING DISCLAIMER OR RENUNCIATION OF PROPERTY OR INTEREST RECEIVABLE FROM A DECEDENT. Any person, or the personal representative of an incompetent, deceased, unborn or unascertained, or minor person, with prior court approval of the court having, or which would have, jurisdiction over such personal representative, or any independent executor of a deceased person, without prior court approval, who may be entitled to receive any property as a beneficiary and who intends to effect disclaimer irrevocably on or after September 1, 1977, of the whole or any part of such property shall evidence same as herein provided. A disclaimer evidenced as provided herein<sup>[1]</sup> shall be effective as of the death of decedent *and shall relate back for all purposes to the death of the decedent and is not subject to the claims of any creditor of the*

*disclaimant. Unless the decedent's will provides otherwise, the property subject to the disclaimer [and the property subject thereof] shall pass as if the person disclaiming or on whose behalf a disclaimer is made had predeceased the decedent and a future interest that would otherwise take effect in possession or enjoyment after the termination of the estate or interest that is disclaimed takes effect as if the disclaiming beneficiary had predeceased the decedent [unless decedent's will provides otherwise].* Failure to comply with the provisions hereof shall render such disclaimer ineffective except as an assignment of such property to those who would have received same had the person attempting the disclaimer died prior to the decedent. The term "property" as used in this section shall include all legal and equitable interests, powers, and property, whether present or future, whether vested or contingent, and whether beneficial or burdensome, in whole or in part. The term "disclaimer" as used in this section shall include "renunciation." In this section "beneficiary" includes a person who would have been entitled, if the person had not made a disclaimer, to receive property as a result of the death of another person by inheritance, under a will, *by an agreement between spouses for community property with a right of survivorship, by a joint tenancy with a right of survivorship, or by any other survivorship agreement, account, or interest in which the interest of the decedent passes to a surviving beneficiary,* by an insurance, annuity, endowment, employment, deferred compensation, or other contract or arrangement, or under a pension, profit sharing, thrift, stock bonus, life insurance, survivor income, incentive, or other plan or program providing retirement, welfare, or fringe benefits with respect to an employee or a self-employed individual. Nothing in this section shall be construed to preclude a subsequent disclaimer by any person who shall be entitled to property as a result of a disclaimer. The following shall apply to such disclaimers:

(a) **Written Memorandum of Disclaimer and Filing Thereof.** In the case of property receivable by a beneficiary, the disclaimer shall be evidenced by a written memorandum, acknowledged before a notary public or other person authorized to take acknowledgements of conveyances of real estate. Unless the beneficiary is a charitable organization or governmental agency of the state, a written memorandum of disclaimer disclaiming a present interest shall be filed not later than nine months after the death of the decedent and a written memorandum of disclaimer disclaiming a future interest may be filed not later than nine months after the event determining that the taker of the property or interest is finally ascertained and his interest is indefeasibly vested. If the beneficiary is a charitable organization or a governmental agency of the state, a written memorandum of disclaimer disclaiming a present or future interest shall be filed not later than nine months after the beneficiary receives the notice required by Section 128A of this code. The written memorandum of disclaimer shall be filed in the probate court in which the decedent's will has been probated or in which proceedings have been commenced for the administration of the decedent's estate or which has before it an application for either of the same; provided, however, if the administration of the decedent's estate is closed, or after the expiration of one year following the date of the issuance of letters testamentary in an independent administration, or if there has been no will of the decedent probated or filed for probate, or if no administration of the decedent's estate has been commenced, or if no application for administration of the decedent's estate has been filed, the written memorandum of disclaimer shall be filed with the county clerk of the county of the decedent's residence, or, if the decedent is not a resident of this state but real property or an interest therein located in this state is disclaimed, a written memorandum of disclaimer shall be filed with the county clerk of the county in which such real property or interest therein is located, and recorded by such county clerk in the deed records of that county.

(b) **Notice of Disclaimer.** Unless the beneficiary is a charitable organization or governmental agency of the state, copies of any written memorandum of disclaimer shall be delivered in person to, or shall be mailed by registered or certified mail to and received by, the legal representative of the transferor of the interest or the holder of legal title to the property to which the disclaimer relates not later than nine months after the *death of the decedent or, if the interest is a future interest, not later than nine months after the date the person who will receive the property or interest is finally ascertained and the person's interest is indefeasibly vested* [~~date on which the transfer creating the interest in the disclaiming person is made~~]. If the beneficiary is a charitable organization or government

agency of the state, the notices required by this section shall be filed not later than nine months after the beneficiary receives the notice required by Section 128A of this code.

(c) Power to Provide for Disclaimer. Nothing herein shall prevent a person from providing in a will, insurance policy, employee benefit agreement, or other instrument for the making of disclaimers by a beneficiary of an interest receivable under that instrument and for the disposition of disclaimed property in a manner different from the provisions hereof.

(d) Irrevocability of Disclaimer. Any disclaimer filed and served under this section shall be irrevocable.

(e) Partial Disclaimer. Any person who may be entitled to receive any property as a beneficiary may disclaim such property in whole or in part, including but not limited to specific powers of invasion, powers of appointment, and fee estate in favor of life estates; and a partial disclaimer or renunciation, in accordance with the provisions of this section, shall be effective whether the property so renounced or disclaimed constitutes a portion of a single, aggregate gift or constitutes part or all of a separate, independent gift; provided, however, that a partial disclaimer shall be effective only with respect to property expressly described or referred to by category in such disclaimer; and provided further, that a partial disclaimer of property which is subject to a burdensome interest created by the decedent's will shall not be effective unless such property constitutes a gift which is separate and distinct from undisclaimed gifts.

*(f) Partial Disclaimer by Spouse. Without limiting Subsection (e) of this section, a disclaimer by the decedent's surviving spouse of a transfer by the decedent is not a disclaimer by the surviving spouse of all or any part of any other transfer from the decedent to or for the benefit of the surviving spouse, regardless of whether the property or interest that would have passed under the disclaimed transfer passes because of the disclaimer to or for the benefit of the surviving spouse by the other transfer.*

(g) [(f)] Disclaimer After Acceptance. No disclaimer shall be effective after the acceptance of the property by the beneficiary. For the purpose of this section, acceptance shall occur only if the person making such disclaimer has previously taken possession or exercised dominion and control of such property in the capacity of beneficiary.

(h) [(g)] Interest in Trust Property. A beneficiary who accepts an interest in a trust is not considered to have a direct or indirect interest in trust property that relates to a licensed or permitted business and over which the beneficiary exercises no control. Direct or indirect beneficial ownership of not more than five percent of any class of equity securities that is registered under the Securities Exchange Act of 1934 shall not be deemed to be an ownership interest in the business of the issuer of such securities within the meaning of any statute, pursuant thereto.

SECTION 2. Section 24.002(12), Business & Commerce Code, is amended to read as follows:

(12) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance. *The term does not include a transfer under a disclaimer filed under Section 37A, Texas Probate Code, or Section 112.010, Property Code.*

SECTION 3. Section 112.010(d), Property Code, is amended to read as follows:

(d) A disclaimer under this section is effective as of the date of the transfer of the interest involved and relates back for all purposes to the date of the transfer and is not subject to the claims of any creditor of the disclaimant. *Unless the terms of the trust provide otherwise, [and] the interest that is the subject of the disclaimer passes as if the person disclaiming had predeceased the transfer and a future interest that would otherwise take effect in possession or enjoyment after the termination of the estate or interest that is disclaimed takes effect as if the disclaiming beneficiary had predeceased the transfer.* A disclaimer under this section is irrevocable.

SECTION 4. Section 44, Texas Probate Code, is amended to read as follows:

Sec. 44. ~~ADVANCEMENTS [ADVANCEMENT BROUGHT INTO HOTCHPOTCH]~~.  
 (a) *If a decedent dies intestate as to all or a portion of the decedent's estate, property the*

decedent gave during the decedent's lifetime to a person who, on the date of the decedent's death, is the decedent's heir, or property received by a decedent's heir under a nontestamentary transfer under Chapter XI of this code is an advancement against the heir's intestate share only if:

(1) the decedent declared in a contemporaneous writing or the heir acknowledged in writing that the gift or nontestamentary transfer is an advancement; or

(2) the decedent's contemporaneous writing or the heir's written acknowledgment otherwise indicates that the gift or nontestamentary transfer is to be taken into account in computing the division and distribution of the decedent's intestate estate.

(b) For purposes of Subsection (a) of this section, property that is advanced is valued at the time the heir came into possession or enjoyment of the property or at the time of the decedent's death, whichever occurs first.

(c) If the recipient of the property fails to survive the decedent, the property is not taken into account in computing the division and distribution of the decedent's intestate estate, unless the decedent's contemporaneous writing provides otherwise. ~~[Whether any of the heirs of a person dying intestate shall have received from such intestate in his lifetime any real, personal or mixed estate by way of advancement, and shall choose to come into the partition and distribution of the estate with the other distributees, such advancement shall be brought into hotchpotch with the whole estate, and such party returning such advancement shall thereupon be entitled to his proper portion of the whole estate; provided that it shall be sufficient to account for the value of the property so brought into hotchpotch at the time it was advanced. Every gratuitous inter vivos transfer is deemed to be an absolute gift and not an advancement unless proved to be an advancement. If an advancee dies before the intestate, leaving a lineal heir who takes from the intestate, the advancement shall be taken into account in the same manner as if it had been directly to such heir. If such heir is entitled to a lesser share in the estate than the advancee would have been entitled to had he survived the intestate, then the heir shall be charged only with such portion of the advancement as the amount he would have inherited, had there been no advancement, bears to the amount which the advancee would have inherited had there been no advancement.]~~

SECTION 5. Section 47(d), Texas Probate Code, is amended to read as follows:

(d) Joint Owners. If any real or personal property, including community property with a right of survivorship, ~~[stocks, bonds, bank deposits, or other intangible property]~~ shall be so owned that one of two joint owners is entitled to the whole on the death of the other, and neither survives the other by 120 hours, these assets shall be distributed one-half as if one joint owner had survived and the other one-half as if the other joint owner had survived. If there are more than two joint owners and all have died within a period of less than 120 hours, these assets shall be divided into as many equal portions as there are joint owners and these portions shall be distributed respectively to those who would have taken in the event that each joint owner survived.

SECTION 6. Section 58, Texas Probate Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A legacy of personal property does not include any contents of the property unless the will directs that the contents are included in the legacy. A devise of real property does not include any personal property located on or associated with the real property or any contents of property located on the real property unless the will directs that the personal property or contents are included in the devise.

(d) In this section:

(1) "Contents" means tangible personal property other than titled personal property found inside of or on a specifically bequested or devised item. The term includes clothing, pictures, furniture, coin collections, and other items of tangible personal property that do not require a formal transfer of title or that are located in another item of tangible personal property such as a cedar chest or furniture located on real property.

(2) "Titled personal property" includes all tangible personal property represented by a certificate of title, written label, marking, or designation that signifies ownership by a person. The term includes a stock certificate, motor vehicle, motor home, motorboat, or other similar property that requires a formal transfer of title.

SECTION 7. Section 58a, Texas Probate Code, is amended to read as follows:

Sec. 58a. DEVISES OR BEQUESTS TO TRUSTEES. (a) A testator may validly devise or bequeath property in a will to the trustee of a trust established or to be established:

(1) during the testator's lifetime by the testator, by the testator and another person, or by another person, including a funded or unfunded life insurance trust, in which the settlor has reserved any or all rights of ownership of the insurance contracts; or

(2) at the testator's death by the testator's devise or bequest to the trustee, if the trust is identified in the testator's will and its terms are in a written instrument, other than a will, that is executed before, with, or after the execution of the testator's will or in another person's will if that other person has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust.

(b) A devise or bequest is not invalid because the trust is amendable or revocable or because the trust was amended after the execution of the will or the testator's death.

(c) Unless the testator's will provides otherwise, property devised or bequeathed to a trust described by Subsection (a) of this section is not held under a testamentary trust of the testator. The property becomes a part of the trust to which it is devised or bequeathed and must be administered and disposed of in accordance with the provisions of the instrument establishing the trust, including any amendments to the instrument made before or after the testator's death.

(d) ~~Unless the testator's will provides otherwise, a revocation or termination of the trust before the testator's death causes the devise or bequest to lapse. [By a will duly executed pursuant to the provisions of this Code, a testator may devise or bequeath property to the trustee of any trust (including an unfunded life insurance trust, even though the trustor has reserved any or all rights of ownership in the insurance contracts) the terms of which are evidenced by a written instrument in existence before or concurrently with the execution of such will and which is identified in such will, even though such trust is subject to amendment, modification, revocation or termination. The property so devised or bequeathed shall be added to the corpus of such trust to be administered as a part thereof and shall thereafter be governed by the terms and provisions of the instrument establishing such trust, including written amendments or modifications thereto made before the death of the testator. An entire revocation of the trust prior to the testator's death shall cause the devise or bequest to lapse.]~~

SECTION 8. Section 67, Texas Probate Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Whenever a pretermitted child is not mentioned in the testator's will, provided for in the testator's will, or otherwise provided for by the testator ~~[of a testator, as herein defined, is neither provided for nor in any way mentioned in the testator's will]~~, the pretermitted child shall succeed to a portion of the testator's estate as provided by Subsection (a)(1) or (a)(2) of this section. ~~[herein provided:]~~

(1) If the testator has one or more children living when he executes his last will, and:

(A) No provision is made therein for any such child, a pretermitted child succeeds to the portion of the testator's separate and community estate to which the pretermitted child would have been entitled pursuant to Section 38(a) of this code had the testator died intestate without a surviving spouse owning only that portion of his estate not devised or bequeathed to the parent of the pretermitted child.

(B) Provision is made therein for one or more of such children, a pretermitted child is entitled to share in the testator's estate as follows:

(i) The portion of the testator's estate to which the pretermitted child is entitled is limited to the disposition made to children under the will.

(ii) The pretermitted child shall receive such share of the testator's estate, as limited in Subparagraph (i), as he would have received had the testator included all pretermitted children with the children upon whom benefits were conferred under the will, and given an equal share of such benefits to each such child.

(iii) To the extent that it is feasible, the interest of the pretermitted child in the testator's estate shall be of the same character, whether an equitable or legal life

estate or in fee, as the interest that the testator conferred upon his children under the will.

(2) If the testator has no child living when he executes his last will, the pretermitted child succeeds to the portion of the testator's separate and community estate to which the pretermitted child would have been entitled pursuant to Section 38(a) of this code had the testator died intestate without a surviving spouse owning only that portion of his estate not devised or bequeathed to the parent of the pretermitted child.

*(d) For the purposes of this section, a child is provided for or a provision is made for a child if a disposition of property to or for the benefit of the pretermitted child, whether vested or contingent, is made:*

*(1) in the testator's will, including a devise or bequest to a trustee as authorized by Section 58(a) of this code; or*

*(2) outside the testator's will and is intended to take effect at the testator's death.*

SECTION 9. Sections 68(a) and (e), Texas Probate Code, are amended to read as follows:

(a) If a devisee who is a descendant of the testator or a descendant of a testator's parent is deceased at the time of the execution of the will, fails to survive the testator, or is treated as if the devisee predeceased the testator by Section 47 of this code or otherwise, the descendants of the devisee who survived the testator *by 120 hours* take the devised property in place of the devisee. The property shall be divided into as many shares as there are surviving descendants in the *nearest [same] degree of kinship to the devisee and [or surviving descendants of] deceased persons in the same degree whose descendants survived [as] the testator. Each[, with each] surviving descendant in the nearest degree receives [receiving] one share, and the share of each deceased person in the same degree is divided among his descendants by representation [in the same manner].* For purposes of this section, a person who would have been a devisee under a class gift if the person had survived the testator is treated as a devisee *unless the person died before the date the will was executed.*

(e) This section applies unless the testator's last will and testament provides otherwise. *For example, a devise or bequest in the testator's will such as "to my surviving children" or "to such of my children as shall survive me" prevents the application of Subsection (a) of this section.*

SECTION 10. Chapter IV, Texas Probate Code, is amended by adding Section 70A to read as follows:

**Sec. 70A. INCREASE IN SECURITIES; ACCESSIONS.** *(a) Unless the will clearly provides otherwise, a devise of securities that are owned by the testator on the date of execution of the will includes the following additional securities subsequently acquired by the testator as a result of the testator's ownership of the devised securities:*

*(1) securities of the same organization acquired because of action initiated by the organization or any successor, related, or acquiring organization, including stock splits, stock dividends, and new issues of stock acquired in a reorganization, redemption, or exchange, other than securities acquired through the exercise of purchase options or through a plan of reinvestment; and*

*(2) securities of another organization acquired as a result of a merger, consolidation, reorganization, or other distribution by the organization or any successor, related, or acquiring organization, including stock splits, stock dividends, and new issues of stock acquired in a reorganization, redemption, or exchange, other than securities acquired through the exercise of purchase options or through a plan of reinvestment.*

*(b) Unless the will clearly provides otherwise, a devise of securities does not include a cash distribution relating to the securities and accruing before death, whether or not the distribution is paid before death.*

*(c) In this section:*

*(1) "Securities" has the meaning assigned by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes), and its subsequent amendments.*

*(2) "Stock" means securities.*

SECTION 11. Section 89, Texas Probate Code, is amended to read as follows:

Sec. 89. ACTION OF COURT ON PROBATED WILL. Upon the completion of hearing of an application for the probate of a will, if the Court be satisfied that such will should be admitted to probate, an order to that effect shall be entered. Certified copies of such will and the order [probate of the same], or of the record thereof, and the record of testimony, may be recorded in other counties, and may be used in evidence, as the original might be, on the trial of the same matter in any other court, when taken there by appeal or otherwise.

~~[Probate of Wills as Muniments of Title. In each instance where the Court is satisfied that a will should be admitted to probate, and where the Court is further satisfied that there are no unpaid debts owing by the estate of the testator, excluding debts secured by liens on real estate, or for other reason finds that there is no necessity for administration upon such estate, the Court may admit such will to probate as a Muniment of Title.~~

~~[The order admitting a will to probate as a Muniment of Title shall constitute sufficient legal authority to all persons owing any money, having custody of any property, or acting as registrar or transfer agent of any evidence of interest, indebtedness, property, or right belonging to the estate, and to persons purchasing from or otherwise dealing with the estate, for payment or transfer to the persons described in such will as entitled to receive the particular asset without administration. The person or persons entitled to property under the provisions of such wills shall be entitled to deal and treat with the properties to which they are so entitled in the same manner as if the record of title thereof were vested in their names.~~

~~[Unless waived by the Court, before the 181st day, or such later day as may be extended by the Court, after the date a will is admitted to probate as a Muniment of Title, the applicant for probate of the will shall file with the clerk of the Court a sworn affidavit stating specifically the terms of the will that have been fulfilled and the terms of the will that have been unfulfilled. Failure of the applicant for probate of the will to file such affidavit shall not otherwise affect title to property passing under the terms of the will.]~~

SECTION 12. Part 1, Chapter V, Texas Probate Code, is amended by adding Section 89A to read as follows:

*Sec. 89A. PROBATE OF WILLS AS MUNIMENTS OF TITLE. (a) In each instance where the court is satisfied that a will should be admitted to probate, and where the court is further satisfied that there are no unpaid debts owing by the estate of the testator, excluding debts secured by liens on real estate, or for other reason finds that there is no necessity for administration upon such estate, the court may admit such will to probate as a muniment of title.*

*(b) If a person who is entitled to property under the provisions of the will cannot be ascertained solely by reference to the will or if a question of construction of the will exists, on proper application and notice as provided by Chapter 37, Civil Practice and Remedies Code, the court may hear evidence and include in the order probating the will as a muniment of title a declaratory judgment construing the will or determining those persons who are entitled to receive property under the will and the persons' shares or interests in the estate. The judgment is conclusive in any suit between any person omitted from the judgment and a bona fide purchaser for value who has purchased real or personal property after entry of the judgment without actual notice of the claim of the omitted person to an interest in the estate. Any person who has delivered property of the decedent to a person declared to be entitled to the property under the judgment or has engaged in any other transaction with the person in good faith after entry of the judgment is not liable to any person for actions taken in reliance on the judgment.*

*(c) The order admitting a will to probate as a muniment of title shall constitute sufficient legal authority to all persons owing any money to the estate of the decedent, having custody of any property, or acting as registrar or transfer agent of any evidence of interest, indebtedness, property, or right belonging to the estate, and to persons purchasing from or otherwise dealing with the estate, for payment or transfer, without liability, to the persons described in such will as entitled to receive the particular asset without administration. The person or persons entitled to property under the provisions of such wills shall be entitled to deal with and treat the properties to which they are so entitled in the same manner as if the record of title thereof were vested in their names.*

(d) *Unless waived by the court, before the 181st day, or such later day as may be extended by the court, after the date a will is admitted to probate as a muniment of title, the applicant for probate of the will shall file with the clerk of the court a sworn affidavit stating specifically the terms of the will that have been fulfilled and the terms of the will that have been unfulfilled. Failure of the applicant for probate of the will to file such affidavit shall not otherwise affect title to property passing under the terms of the will.*

SECTION 13. Section 110, Texas Probate Code, is amended to read as follows:

Sec. 110. PERSONS DISQUALIFIED TO SERVE AS GUARDIANS. (a) The following persons shall not be appointed guardians:

- (1) [(a)] Minors.
- (2) [(b)] Persons whose conduct is notoriously bad.
- (3) [(c)] Incompetents.
- (4) [(d)] Those who are themselves parties, or whose father or mother is a party to a lawsuit on the result of which the welfare of the person for whom, or for whose estate, a guardian is to be appointed, may depend, *unless the court:*

(A) *determines, in its discretion, that the lawsuit claim of the party applying for guardianship is not in conflict with the claim of the party who is the subject of the guardianship; or*

(B) *appoints a guardian ad litem, if necessary, to separately and independently represent the interest of the party who is the subject of the guardianship throughout the litigation process.*

(5) [(e)] Those who are indebted to the person for whom or for whose estate a guardian is to be appointed, unless they pay the debt prior to the appointment, or who are asserting any claim to any property, real or personal, adverse to the person for whom, or for whose estate, the appointment is sought.

(6) [(g)] Those who by reason of inexperience or lack of education, or for other good reason, are shown to be incapable of properly and prudently managing and controlling the ward or his estate.

(b) *If an ad litem is appointed under Subsection (a) of this section, the fees and expenses of the guardian ad litem shall be taxed as costs of the litigation proceeding that made the ad litem's appointment necessary. In the interest of judicial economy, the guardian ad litem may be the same person who has been appointed attorney ad litem under Section 113A or 131(c) of this code or may be a person who is serving as an ad litem for the benefit of the ward in any other proceeding.*

(c) *A spouse, parent, or child who has been disqualified from serving as guardian because of a litigation conflict under Subsection (a)(4) of this section and who is otherwise qualified as a guardian may be appointed as successor guardian on the removal of any conflict causing the initial disqualification.*

SECTION 14. Section 111, Texas Probate Code, as amended by Section 2, Chapter 330, and Section 1, Chapter 1164, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

Sec. 111. APPLICATION FOR APPOINTMENT OF PERMANENT GUARDIAN. [(a)] A proceeding for the appointment of a guardian shall be begun by written application filed in the court of the county having venue thereof. Any person may make such application. Such application shall be sworn and must state:

(1) The name, sex, date of birth, and residence, of the person for whom the appointment of a guardian is sought;

(2) If a minor, the names of the parents and next of kin of such persons, and whether either or both of the parents are deceased;

(3) If a minor, a statement of whether the minor has been the subject of a legal or conservatorship proceeding within the preceding two-year period, and if so, the court involved, the nature of the proceeding, and the final disposition, if any, of the proceeding;

(4) If a person 60 years of age or older, the name and address, to the best of the applicant's knowledge, of the person's spouse, brother, sister, and children;



(5) A general description of the property comprising such person's estate, if guardianship of the estate is sought;

(6) The facts which require that a guardian be appointed;

(7) The name, relationship, and address of the person whom the applicant desires to have appointed as guardian;

(8) Whether guardianship of the person and estate, or of the person or of the estate, is sought;

(9) The social security number of the applicant and of the person for whom the appointment of a guardian is sought; and

(10) Such other facts as show that the court has venue over the proceeding.

~~[(b) The portion of the application stating the information required by Subsection (a)(3) of this section shall be sworn to by the applicant.]~~

SECTION 15. Section 145(q), Texas Probate Code, is amended to read as follows:

(q) Absent proof of fraud or collusion on the part of a judge, no judge may be held civilly liable for the commission of misdeeds or the omission of any required act of any person, firm, or corporation designated as an independent executor or *independent administrator* under Subsections (c), (d), and (e) of the section. *Section 36 of this code does not apply to the appointment of an independent executor or administrator under Subsection (c), (d), or (e) of this section.*

SECTION 16. Section 154A, Texas Probate Code, is amended by adding Subsection (i) to read as follows:

(i) *Absent proof of fraud or collusion on the part of a judge, the judge may not be held civilly liable for the commission of misdeeds or the omission of any required act of any person, firm, or corporation designated as a successor independent executor under this section. Section 36 of this code does not apply to an appointment of a successor independent executor under this section.*

SECTION 17. Section 160, Texas Probate Code, is amended to read as follows:

Sec. 160. POWERS OF SURVIVING SPOUSE WHEN NO ADMINISTRATION IS PENDING. (a) When no one has qualified as executor or administrator of the estate of a deceased spouse, the surviving spouse, whether the husband or wife, as the surviving partner of the marital partnership, without qualifying as community administrator as hereinafter provided, has power to sue and be sued for the recovery of community property; to sell, mortgage, lease, and otherwise dispose of community property for the purpose of paying community debts; to collect claims due to the community estate; and has such other powers as shall be necessary to preserve the community property, discharge community obligations, and wind up community affairs.

(b) *If an affidavit stating that the affiant is the surviving spouse and that no one has qualified as executor or administrator of the estate of the deceased spouse is furnished to a person owing money to the community estate for current wages at the time of the death of the deceased spouse, the person making payment or delivering to the affiant the deceased spouse's final paycheck for wages, including unpaid sick pay or vacation pay, if any, is released from liability to the same extent as if the payment or delivery was made to a personal representative of the deceased spouse. The person is not required to inquire into the truth of the affidavit. The affiant to whom the payment or delivery is made is answerable to any person having a prior right and is accountable to any personal representative who is appointed. The affiant is liable for any damage or loss to any person that arises from a payment or delivery made in reliance on the affidavit.*

(c) *This section does not affect the disposition of the property of the deceased spouse.*

SECTION 18. Section 271, Texas Probate Code, is amended to read as follows:

Sec. 271. EXEMPT PROPERTY TO BE SET APART. (a) *Unless an affidavit is filed under Subsection (b) of this section, immediately [Immediately] after the inventory, appraisal, and list of claims have been approved, the court shall, by order, set apart for the use and benefit of the surviving spouse and minor children and unmarried children remaining*

with the family of the deceased, all such property of the estate as is exempt from execution or forced sale by the constitution and laws of the state.

*(b) Before the approval of the inventory, appraisalment, and list of claims, a surviving spouse, any person who is authorized to act on behalf of minor children of the deceased, or any unmarried children remaining with the family of the deceased may apply to the court to have exempt property set aside by filing an application and a verified affidavit listing all of the property that the applicant claims is exempt. The applicant bears the burden of proof by a preponderance of the evidence at any hearing on the application. The court shall set aside property of the decedent's estate that the court finds is exempt.*

SECTION 19. Section 273, Texas Probate Code, is amended to read as follows:

Sec. 273. ALLOWANCE IN LIEU OF EXEMPT PROPERTY. In case there should not be among the effects of the deceased all or any of the specific articles exempted from execution or forced sale by the Constitution and laws of this state, the court shall make a reasonable allowance in lieu thereof, to be paid to such surviving spouse and children, or such of them as there are, as hereinafter provided. The allowance in lieu of a homestead shall in no case exceed \$15,000 [~~Ten Thousand Dollars~~] and the allowance for other exempted property shall in no case exceed \$5,000 [~~One Thousand Dollars~~], exclusive of the allowance for the support of the surviving spouse and minor children which is hereinafter provided for.

SECTION 20. Section 286, Texas Probate Code, is amended to read as follows:

Sec. 286. FAMILY ALLOWANCE TO SURVIVING SPOUSES AND MINORS. *(a) Unless an affidavit is filed under Subsection (b) of this section, immediately [~~Immediately~~] after the inventory, appraisalment, and list of claims have been approved, the court shall fix a family allowance for the support of the surviving spouse and minor children of the deceased.*

*(b) Before the approval of the inventory, appraisalment, and list of claims, a surviving spouse or any person who is authorized to act on behalf of minor children of the deceased may apply to the court to have the court fix the family allowance by filing an application and a verified affidavit describing the amount necessary for the maintenance of the surviving spouse and minor children for one year after the date of the death of the decedent and describing the spouse's separate property and any property that minor children have in their own right. The applicant bears the burden of proof by a preponderance of the evidence at any hearing on the application. The court shall fix a family allowance for the support of the surviving spouse and minor children of the deceased.*

SECTION 21. Section 333, Texas Probate Code, is amended to read as follows:

Sec. 333. CERTAIN PERSONAL PROPERTY TO BE SOLD. *(a) The representative of an estate, after approval of inventory and appraisalment, shall promptly apply for an order of the court to sell at public auction or privately, for cash or on credit not exceeding six months, all of the estate that is liable to perish, waste, or deteriorate in value, or that will be an expense or disadvantage to the estate if kept. Property [~~Bonds, securities, or other personal property deemed by the court not to be so liable, property~~] exempt from forced sale, specific legacies, and personal property necessary to carry on a farm, ranch, factory, or any other business which it is thought best to operate, shall not be included in such sales.*

*(b) In determining whether to order the sale of an asset under Subsection (a) of this section, the court shall consider:*

*(1) the representative's duty to take care of and manage the estate as a person of ordinary prudence, discretion, and intelligence would exercise in the management of the person's own affairs; and*

*(2) whether the asset constitutes an asset that a trustee is authorized to invest under Section 113.056 or Subchapter F, Chapter 113, Property Code.*

SECTION 22. Section 389, Texas Probate Code, is amended to read as follows:

Sec. 389. INVESTMENTS WITHOUT COURT ORDER. *(a) The guardian of the estate may retain, without regard to diversification of investments and without liability for any depreciation or loss resulting from the retention, any property received into a guardianship estate at its inception or added to the estate by gift, devise, or inheritance or by mutation or increase. A guardian of the estate is not relieved from the duty to take care of and manage*

*the estate as a person of ordinary prudence, discretion, and intelligence would exercise in the management of the person's own affairs.*

(b) If, at any time, the guardian of the estate shall have on hand money belonging to the ward beyond that which may be necessary for the education and maintenance of such ward or wards, he shall invest such money as follows:

(1) [~~(a)~~] In bonds or other obligations of the United States; [~~or~~]

(2) [~~(b)~~] In tax-supported bonds of the State of Texas; [~~or~~]

(3) [~~(c)~~] In tax-supported bonds of any county, district, political subdivision, or incorporated city or town in the State of Texas; provided, that the bonds of counties, districts, subdivisions, cities, and towns may be purchased only subject to the following restrictions: the net funded debt of said issuing unit shall not exceed ten per cent of the assessed value of taxable property therein, "net funded debt" meaning the total funded debt less sinking funds on hand; and further, in the case of cities or towns, less that part of the debt incurred for acquisition or improvement of revenue-producing utilities, the revenues of which are not pledged to support other obligations; provided, however, that these restrictions shall not apply to bonds issued for road purposes in this state under authority of Section 52 of Article III of the Constitution of Texas, which bonds are supported by a tax unlimited as to rate or amount; [~~or~~]

(4) [~~(d)~~] In shares or share accounts of any building and loan association organized under the laws of this state, provided the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation; [~~or~~]

(5) [~~(e)~~] In the shares or share accounts of any federal savings and loan association domiciled in this state, where the payment of such shares or share accounts is insured by the Federal Savings & Loan Insurance Corporation; [~~or~~]

(6) [~~(f)~~] In collateral bonds of companies incorporated under the laws of the State of Texas, having a paid-in capital of One Million Dollars or more, when such bonds are a direct obligation of the company issuing them, and are specifically secured by first mortgage real estate notes or other securities pledged with a trustee; [~~or~~]

(7) [~~(g)~~] In interest-bearing time deposits which may be withdrawn on or before one year after demand in any bank doing business in Texas where the payment of such time deposits is insured by the Federal Deposit Insurance Corporation.

SECTION 23. The heading of Section 389A, Texas Probate Code, is amended to read as follows:

Sec. 389A. [~~OTHER~~] INVESTMENTS WITH COURT ORDER

SECTION 24. Part 8, Chapter VIII, Texas Probate Code, is amended by adding Section 378B to read as follows:

Sec. 378B. ALLOCATION OF INCOME AND EXPENSES DURING ADMINISTRATION OF DECEDENT'S ESTATE. (a) *Except as provided by Subsection (b) of this section and unless the will provides otherwise, all expenses incurred in connection with the settlement of a decedent's estate, including debts, funeral expenses, estate taxes, interest and penalties relating to estate taxes, and family allowances, shall be charged against the principal of the estate. Fees and expenses of an attorney, accountant, or other professional advisor, commissions and expenses of a personal representative, court costs, and all other similar fees or expenses relating to the administration of the estate shall be allocated between the income and principal of the estate as the executor determines in its discretion to be just and equitable.*

(b) *Unless the will provides otherwise, income from the assets of a decedent's estate that accrues after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be determined according to the rules applicable to a trustee under the Texas Trust Code (Subtitle B, Title 9, Property Code) and distributed as provided by Subsections (c), (d), and (e) of this section.*

(c) *The income from the property bequeathed or devised to a specific devisee shall be distributed to the devisee after reduction for property taxes, ordinary repairs, insurance premiums, interest accrued after the death of the testator, other expenses of management and*

operation of the property, and other taxes, including the taxes imposed on the income that accrues during the period of administration and that is payable to the devisee.

(d) Except as provided by Subsection (f) of this section, the balance of the net income shall be distributed to all other devisees after reduction for the balance of property taxes, ordinary repairs, insurance premiums, interest accrued, including interest accruing as provided by Subsection (f) of this section after the death of the testator, other expenses of management and operation of all property from which the estate is entitled to income, and taxes imposed on income that accrues during the period of administration and that is payable or allocable to the devisees, in proportion to the devisees' respective interests in the undistributed assets of the estate.

(e) If a charitable organization is entitled to receive income under Subsection (b) of this section, any amount allowed as a tax deduction to the estate for income payable to the charitable organization shall be paid, without reduction for taxes, to the charitable organization.

(f) A devisee of a pecuniary bequest, whether or not in trust, shall be paid interest on the bequest at the legal rate of interest as provided by Article 1.03, Revised Statutes (Article 5069-1.03, Vernon's Texas Civil Statutes), and its subsequent amendments, beginning one year after the date the court grants letters testamentary or letters of administration.

(g) Income received by a trustee under this section shall be treated as income of the trust as provided by Section 113.103, Property Code.

(h) In this section, "undistributed assets" includes funds used to pay debts, administration expenses, and federal and state estate, inheritance, succession, and generation-skipping transfer taxes until the date of payment of the debts, expenses, and taxes. Except as required by Sections 2055 and 2056 of the Internal Revenue Code of 1986 (26 U.S.C. Secs. 2055 and 2056), and its subsequent amendments, the frequency and method of determining the beneficiaries' respective interests in the undistributed assets of the estate shall be in the executor's sole and absolute discretion. The executor may consider all relevant factors, including administrative convenience and expense and the interests of the various beneficiaries of the estate in order to reach a fair and equitable result among beneficiaries.

SECTION 25. Sections 436(3) and (5), Texas Probate Code, are amended to read as follows:

(3) "Financial institution" means an organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, [and] credit unions, and brokerage firms that deal in the sales and purchases of stocks, bonds, and other types of securities.

(5) "Multiple-party account" means a joint account, a convenience account, a P.O.D. account, or a trust account. It does not include accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes, or accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, charitable or civic organization, or a regular fiduciary or trust account where the relationship is established other than by deposit agreement.

SECTION 26. Sections 439(b) and (c), Texas Probate Code, are amended to read as follows:

(b) If the account is a P.O.D. account and there is a written agreement signed by the original payee or payees, on the death of the original payee or on the death of the survivor of two or more original payees, any sums remaining on deposit belong to the P.O.D. payee or payees if surviving, or to the survivor of them if one or more P.O.D. payees die before the original payee. If two or more P.O.D. payees survive, there is no right of survivorship in event of death of a P.O.D. payee thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(c) If the account is a trust account and there is a written agreement signed by the trustee or trustees, on death of the trustee or the survivor of two or more trustees, any sums remaining on deposit belong to the person or persons named as beneficiaries, if surviving, or to the survivor of them if one or more beneficiaries die before the trustee dies, ~~unless there is clear and convincing evidence of a contrary intent~~. If two or more beneficiaries survive,

there is no right of survivorship in event of death of any beneficiary thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

SECTION 27. Part 1, Chapter XI, Texas Probate Code, is amended by adding Section 438A to read as follows:

*Sec. 438A. CONVENIENCE ACCOUNT. (a) If an account is established at a financial institution by a party in the names of the party and a co-signer and the terms of the account provide that the sums on deposit are paid or delivered to the party or to the co-signer "for the convenience" of the party, the account is a convenience account.*

*(b) The making of a deposit in a convenience account does not affect the title to the deposit.*

*(c) The party to a convenience account is not considered to have made a gift of one-half of the deposit or of any additions or accruals to the deposit to the co-signer.*

*(d) On the death of the party, the co-signer shall have no right of survivorship in the account and ownership of the account remains in the party.*

*(e) If an addition is made to the account by anyone other than the party, the addition and accruals to the addition are considered to have been made by the party.*

*(f) All deposits to a convenience account and additions and accruals to the deposits may be paid to the party or to the co-signer. The financial institution is completely released from liability for a payment made from the account before the financial institution receives notice in writing signed by the party not to make the payment in accordance with the terms of the account. After receipt of the notice from the party, the financial institution may require the party to approve any further payments from the account.*

*(g) If the financial institution makes a payment of the sums on deposit in a convenience account to the co-signer after the death of the party and before the financial institution has received written notice of the party's death, the financial institution is completely released from liability for the payment. If a financial institution makes payment to the personal representative of the deceased party's estate after the death of the party and before service on the financial institution of a court order prohibiting payment, the financial institution is released to the extent of the payment from liability to any person claiming a right to the funds. The receipt by the representative to whom payment is made is a complete release and discharge of the financial institution.*

SECTION 28. Section 111.004, Property Code, is amended by adding Subdivision (24) to read as follows:

*(24) "Environmental law" means any federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.*

SECTION 29. Subchapter A, Chapter 113, Property Code, is amended by adding Section 113.025 to read as follows:

*Sec. 113.025. POWERS OF TRUSTEE REGARDING ENVIRONMENTAL LAWS. (a) A trustee or a potential trustee may inspect, investigate, cause to be inspected, or cause to be investigated trust property, property that the trustee or potential trustee has been asked to hold, or property owned or operated by an entity in which the trustee or potential trustee holds or has been asked to hold any interest or for the purpose of determining the potential application of environmental law with respect to the property. This subsection does not grant any person the right of access to any property. The taking of any action under this subsection with respect to a trust or an addition to a trust is not evidence that a person has accepted the trust or the addition to the trust.*

*(b) A trustee may take on behalf of the trust any action before or after the initiation of an enforcement action or other legal proceeding that the trustee reasonably believes will help to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee.*

SECTION 30. Section 114.001, Property Code, is amended by adding Subsection (d) to read as follows:

*(d) The trustee is not liable to the beneficiary for a loss or depreciation in value of the trust property or for acting or failing to act under Section 113.025 or under any other*

*provision of this subtitle if the action or failure to act relates to compliance with an environmental law and if there is no gross negligence or bad faith on the part of the trustee. The provision of any instrument governing trustee liability does not increase the liability of the trustee as provided by this section unless the settlor expressly makes reference to this subsection.*

SECTION 31. Section 114.063, Property Code, is amended to read as follows:

Sec. 114.063. GENERAL RIGHT TO REIMBURSEMENT. (a) A trustee may discharge or reimburse himself from trust principal or income or partly from both for:

(1) advances made for the convenience, benefit, or protection of the trust or its property; [and]

(2) expenses incurred while administering or protecting the trust or because of the trustee's holding or owning any of the trust property; and

(3) *expenses incurred for any action taken under Section 113.025.*

(b) The trustee has a lien against trust property to secure reimbursement under Subsection (a) [~~of this section~~].

(c) *A potential trustee is entitled to reimbursement from trust principal or income or partly from both for reasonable expenses incurred for any action taken under Section 113.025(a) if:*

(1) *a court orders reimbursement or the potential trustee has entered into a written agreement providing for reimbursement with the personal representative of the estate, the trustee of the trust, the settlor, the settlor's attorney-in-fact, the settlor's personal representative, or the person or entity designated in the trust instrument or will to appoint a trustee; and*

(2) *the potential trustee has been appointed trustee under the terms of the trust instrument or will or has received a written request to accept the trust from the settlor, the settlor's attorney-in-fact, the settlor's personal representative, or the person or entity designated in the trust instrument or will to appoint a trustee.*

SECTION 32. Section 113.109, Property Code, is amended to read as follows:

Sec. 113.109. PROPERTY OTHER THAN NATURAL RESOURCES SUBJECT TO DEPLETION. (a) *If the principal of a trust includes a deferred payment right, the proceeds of the right, on receipt, are income up to five percent of the inventory value of the right, determined separately for each year following the year in which the right first becomes subject to the trust. The remainder of the proceeds is principal. The allocation to income is computed in the same manner in which interest under a loan of the initial inventory amount would be computed, at five percent interest compounded annually, if periodic payments are made by the borrower to the lender.*

(b) *For the first year, inventory value is determined as provided by this subtitle. For each year after the first year, the inventory value is:*

(1) *reduced to the extent that proceeds of the right were allocated to principal during the preceding year; and*

(2) *increased to the extent that the proceeds received during the preceding year were less than five percent of the inventory value for that year.*

(c) *While the deferred payment right is under administration in a decedent's estate, income and principal are determined by using the fiscal year of the estate and ending on the date the trust is funded with the right. After the administration of the estate, the fiscal year of the trust is used. The five percent allocation to income is prorated for a year that is less than 12 months.*

(d) *The proceeds of a deferred payment right include all receipts relating to the right, whether or not the receipts are periodic. After the proceeds are received by the trustee and allocated, this section does not apply to the proceeds, except to the extent the proceeds include a deferred payment right.*

(e) *In this section:*

(1) *"Deferred payment right" means a depletable asset, other than natural resources or timber, consisting of the right to property under a contract, account, or other arrangement*

that is payable not earlier than 12 months after the date the right becomes subject to the trust. A deferred payment right includes the right to receive a periodic, annuity, installment, or single sum future payment:

(A) under a leasehold, patent, copyright, or royalty;

(B) of income in respect of a decedent under Section 691 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 691);

(C) of death benefits;

(D) of benefits under a nonqualified plan of deferred compensation or similar arrangement; or

(E) under an employee's trust, a retirement account, a plan described by Section 403 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 403), or an employee benefit plan.

(2) "Employee benefit plan" means an employee benefit plan as defined by Section 1002, Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. Sec. 1002), a plan that does not meet the requirements of an employee benefit plan under ERISA because the plan does cover common law employees, or a plan that is similar to an employee benefit plan under ERISA whether or not the plan is covered under Subchapter I of ERISA.

(3) "Year" means the fiscal year for federal income tax reporting purposes. ~~[If part of the principal consists of property other than natural resources or timber that is depletable, such as a leasehold, patent, copyright, royalty, or right to receive payments on a contract for deferred compensation, and the trustee does not have a duty to change the form of the investment, the return from the property is income, but if the trustee has a duty under existing law or the instrument creating the trust to change the form of the investment, as soon as it may be done without sacrifice of value, the return from the property is income up to five percent a year of the inventory value of the property, and the remainder is principal.]~~

SECTION 33. Section 45, Texas Probate Code, is amended to read as follows:

Sec. 45. COMMUNITY ESTATE. (a) On the intestate death of one of the spouses to a marriage, the community property estate of the deceased spouse passes to the surviving spouse if:

(1) no child or other descendant of the deceased spouse survives the deceased spouse; or

(2) all surviving children and descendants of the deceased spouse are also children or descendants of the surviving spouse.

(b) On the intestate death of one of the spouses to a marriage, if a child or other descendant of the deceased spouse survives the deceased spouse and the child or descendant is not a child or descendant of the surviving spouse, one-half of the community estate is retained by the surviving spouse and the other one-half passes to the children or descendants of the deceased spouse. ~~The [Upon the dissolution of the marriage relation by death, all property belonging to the community estate of the husband and wife shall go to the survivor, if there be no child or children of the deceased or their descendants; but if there be a child or children of the deceased, or descendants of such child or children, then the survivor shall be entitled to one half of said property, and the other half shall pass to such child or children, or their descendants. But such]~~ descendants shall inherit only such portion of said property to which they would be entitled under Section 43 of this code. In every case, the community estate passes charged with the debts against it.

SECTION 34. Subchapter A, Chapter 5, Property Code, is amended by adding Section 5.008 to read as follows:

Sec. 5.008. DUTIES OF LIFE TENANT. (a) Subject to Subsection (b), if the life tenant of a legal life estate is given the power to sell and reinvest any life tenancy property, the life tenant is subject, with respect to the sale and investment of the property, to all of the fiduciary duties of a trustee imposed by the Texas Trust Code (Subtitle B, Title 9, Property Code) or the common law of this state.

(b) A life tenant may retain, as life tenancy property, any real property originally conveyed to the life tenant without being subject to the fiduciary duties of a trustee; however, the life tenant is subject to the common law duties of a life tenant.

SECTION 35. (a) The changes in law made by Sections 1, 2, and 3 of this Act apply only to a disclaimer made on or after the effective date of this Act. A disclaimer made before the effective date of this Act is covered by the law in effect when the disclaimer was made, and the former law is continued in effect for that purpose.

(b) The changes in law made by Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, and 24 of this Act apply only to the estates of persons who die on or after the effective date of this Act. The estate of a person who dies before the effective date of this Act is covered by the law in effect when the person died, and the former law is continued in effect for that purpose.

(c) The changes in law made by Section 13 of this Act apply only to a guardian appointed on or after the effective date of this Act. A guardian appointed before the effective date of this Act is covered by the law in effect when the guardian was appointed, and the former law is continued in effect for that purpose.

(d) The changes in law made by Section 26 of this Act apply only to an account created on or after the effective date of this Act. An account created before the effective date of this Act is covered by the law in effect when the account was created, and the former law is continued in effect for that purpose.

(e) The changes in law made by Section 32 of this Act apply only to property that becomes subject to a trust on or after the effective date of this Act. Property that becomes subject to a trust before the effective date of this Act is covered by the law in effect when the property became subject to the trust, and the former law is continued in effect for that purpose.

SECTION 36. This Act takes effect September 1, 1993.

SECTION 37. 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.

Passed by the House on April 7, 1993, by a non-record vote; House refused to concur in Senate amendments to H.B. No. 1200 on May 22, 1993, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 1200 on May 27, 1993, by a non-record vote; passed by the Senate, with amendments, on May 14, 1993, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 1200 on May 28, 1993, by a viva-voce vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.