

## CHAPTER 741

## H.B. No. 507

## AN ACT

relating to individual retirement accounts, simplified employee pensions, and other death benefits.

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

SECTION 1. Section 111.004, Property Code, is amended by adding Subsections (19)-(23) to read as follows:

(19) "Employees' trust" means:

(A) a trust that forms a part of a stock-bonus, pension, or profit-sharing plan under Section 401, Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 401 (1986));

(B) a pension trust under Chapter 111; and

(C) an employer-sponsored benefit plan or program, or any other retirement savings arrangement, including a pension plan created under Section 3, Employee Retirement Income Security Act of 1974 (29 U.S.C.A. Sec. 1002 (1986)), regardless of whether the plan, program, or arrangement is funded through a trust.

(20) "Individual retirement account" means a trust, custodial arrangement, or annuity under Section 408(a) or (b), Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 408 (1986)).

(21) "Retirement account" means a retirement-annuity contract, an individual retirement account, a simplified employee pension, or any other retirement savings arrangement.

(22) "Retirement-annuity contract" means an annuity contract under Section 403, Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 403 (1986)).

(23) "Simplified employee pension" means a trust, custodial arrangement, or annuity under Section 408, Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 408 (1986)).

SECTION 2. Section 111.004(12), Property Code, is amended to read as follows:

(12) "Property" means any type of property, whether real, tangible or intangible, legal, or equitable. The term also includes choses in action, claims, and contract rights, including a contractual right to receive death benefits as designated beneficiary under a policy of insurance, contract, employees' trust, *retirement account*, or other arrangement.

SECTION 3. Section 121.051(a), Property Code, is amended to read as follows:

(a) In this subchapter:

(1) "Death benefit" means a benefit of any kind, including the proceeds of a life insurance policy or any other payment, in cash or property, under an employees' trust or a retirement account, a contract purchased by an employees' trust or a retirement account, or a retirement-annuity contract that is payable because of an employee's, participant's, or beneficiary's death to or for the benefit of the employee's, participant's, or beneficiary's beneficiary.

(2) "Employee" means a person covered by ~~[a plan containing]~~ an employees' trust or a retirement account that provides a death benefit or<sup>[,]</sup> a person whose interest in an employees' trust or a retirement account has not been fully distributed~~[, and a person covered by a plan containing a retirement-annuity contract].~~

(3) "Employees' trust" means:

(A) a trust forming a part of a stock-bonus, pension, or profit-sharing plan under Section 401, Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 401 (1986));

(B) a pension trust under Chapter 111; and

(C) an employer-sponsored benefit plan or program, or any other retirement savings arrangement, including a pension plan created under Section 3, Employee Retirement Income Security Act of 1974 (29 U.S.C.A. Sec. 1002 (1986)), regardless of whether the plan, program, or arrangement is funded through a trust~~[, and pension trusts under Subchapter A].~~

(4) "Individual retirement account" means a trust, custodial arrangement, or annuity under Section 408(a) or (b), Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 408 (1986)).

(5) "Participant" means a person covered by an employees' trust or a retirement account that provides a death benefit or a person whose interest in an employees' trust or a retirement account has not been fully distributed.

(6) "Retirement account" means a retirement-annuity contract, an individual retirement account, a simplified employee pension, or any other retirement savings arrangement.

(7) ~~[(4)]~~ "Retirement-annuity contract" means an annuity contract under Section 403, Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 403 (1986)).

(8) "Simplified employee pension" means a trust, custodial arrangement, or annuity under Section 408, Internal Revenue Code of 1954 (26 U.S.C.A. Sec. 408 (1986)).

(9) ~~[(5)]~~ "Trust" and "trustee" have the meanings assigned by the Texas Trust Code ~~[Act]~~ (Chapters 111 through 115), except that "trust" includes any trust, regardless of when it is created.

SECTION 4. Section 121.052(a), Property Code, is amended to read as follows:

(a) A death benefit is payable to a trustee of a trust evidenced by a written instrument or declaration existing on the date of an employee's or participant's death, or to a trustee named or to be named as trustee of a trust created under an employee's or participant's will, if the trustee is designated as beneficiary under the plan containing the employees' trust or under the retirement account ~~[retirement-annuity contract].~~

SECTION 5. Section 121.054, Property Code, is amended to read as follows:

Sec. 121.054. UNCLAIMED BENEFITS. If a trustee does not claim a death benefit on or before the first anniversary of the employee's or participant's death or if satisfactory evidence is provided to a trustee, custodian, ~~[or]~~ other fiduciary, ~~[of the employees' trust]~~ or other obligor of the employees' trust, contract purchased by the employees' trust, or the retirement account before the first anniversary of the employee's or participant's death that there is or will be no trustee to receive the death benefit, the death benefit shall be paid:

(1) according to the beneficiary designation under the plan, *trust, contract, or arrangement providing the death benefit under* [~~containing~~] the employees' trust or retirement account [~~under the retirement annuity contract~~]; or

(2) if there is no designation in the *employees' trust or retirement account* [~~plan or contract~~], to the personal representative of the deceased employee's or participant's estate.

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 by the House on April 2, 1987, by a non-record vote. Passed by the Senate on May 20, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 20, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.