

PROPERTY CODE

TITLE 9. TRUSTS

SUBTITLE B. TEXAS TRUST CODE: CREATION, OPERATION, AND TERMINATION
OF TRUSTS

CHAPTER 115. JURISDICTION, VENUE, AND PROCEEDINGS

SUBCHAPTER A. JURISDICTION AND VENUE

Sec. 115.001. JURISDICTION. (a) Except as provided by Subsection (d) of this section, a district court has original and exclusive jurisdiction over all proceedings by or against a trustee and all proceedings concerning trusts, including proceedings to:

- (1) construe a trust instrument;
- (2) determine the law applicable to a trust instrument;
- (3) appoint or remove a trustee;
- (4) determine the powers, responsibilities, duties, and liability of a trustee;
- (5) ascertain beneficiaries;
- (6) make determinations of fact affecting the administration, distribution, or duration of a trust;
- (7) determine a question arising in the administration or distribution of a trust;
- (8) relieve a trustee from any or all of the duties, limitations, and restrictions otherwise existing under the terms of the trust instrument or of this subtitle;
- (9) require an accounting by a trustee, review trustee fees, and settle interim or final accounts; and
- (10) surcharge a trustee.

(a-1) The list of proceedings described by Subsection (a) over which a district court has exclusive and original jurisdiction is not exhaustive. A district court has exclusive and original jurisdiction over a proceeding by or against a trustee or a proceeding concerning a trust under Subsection (a) whether or not the proceeding is listed in Subsection (a).

(b) The district court may exercise the powers of a court of equity in matters pertaining to trusts.

(c) The court may intervene in the administration of a trust to the extent that the court's jurisdiction is invoked by an interested person or as otherwise provided by law. A trust is not subject to continuing judicial supervision unless the court orders continuing judicial supervision.

(d) The jurisdiction of the district court is exclusive except for jurisdiction conferred by law on:

(1) a statutory probate court;

(2) a court that creates a trust under Subchapter B, Chapter 1301, Estates Code;

(3) a court that creates a trust under Section 142.005;

(4) a justice court under Chapter 27, Government Code;

or

(5) a county court at law.

Amended by Acts 1983, 68th Leg., p. 3332, ch. 567, art. 2, Sec. 2, eff. Jan. 1, 1984; Acts 1997, 75th Leg., ch. 1375, Sec. 5, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 148 (H.B. 1190), Sec. 22, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 451 (H.B. 564), Sec. 11, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 657 (S.B. 1197), Sec. 4, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.060, eff. September 1, 2017.

Sec. 115.002. VENUE. (a) The venue of an action under Section 115.001 of this Act is determined according to this section.

(b) If there is a single, noncorporate trustee, an action shall be brought in the county in which:

(1) the trustee resides or has resided at any time during the four-year period preceding the date the action is filed;

or

(2) the situs of administration of the trust is

maintained or has been maintained at any time during the four-year period preceding the date the action is filed.

(b-1) If there are multiple trustees none of whom is a corporate trustee and the trustees maintain a principal office in this state, an action shall be brought in the county in which:

(1) the situs of administration of the trust is maintained or has been maintained at any time during the four-year period preceding the date the action is filed; or

(2) the trustees maintain the principal office.

(b-2) If there are multiple trustees none of whom is a corporate trustee and the trustees do not maintain a principal office in this state, an action shall be brought in the county in which:

(1) the situs of administration of the trust is maintained or has been maintained at any time during the four-year period preceding the date the action is filed; or

(2) any trustee resides or has resided at any time during the four-year period preceding the date the action is filed.

(c) If there are one or more corporate trustees, an action shall be brought in the county in which:

(1) the situs of administration of the trust is maintained or has been maintained at any time during the four-year period preceding the date the action is filed; or

(2) any corporate trustee maintains its principal office in this state.

(c-1) Notwithstanding Subsections (b), (b-1), (b-2), and (c), if the settlor is deceased and an administration of the settlor's estate is pending in this state, an action involving the interpretation and administration of an inter vivos trust created by the settlor or a testamentary trust created by the settlor's will may be brought:

(1) in a county in which venue is proper under Subsection (b), (b-1), (b-2), or (c); or

(2) in the county in which the administration of the settlor's estate is pending.

(d) For just and reasonable cause, including the location of the records and the convenience of the parties and witnesses, the

court may transfer an action from a county of proper venue under this section to another county of proper venue:

(1) on motion of a defendant or joined party, filed concurrently with or before the filing of the answer or other initial responsive pleading, and served in accordance with law; or

(2) on motion of an intervening party, filed not later than the 20th day after the court signs the order allowing the intervention, and served in accordance with law.

(e) Notwithstanding any other provision of this section, on agreement by all parties the court may transfer an action from a county of proper venue under this section to any other county.

(f) For the purposes of this section:

(1) "Corporate trustee" means an entity organized as a financial institution or a corporation with the authority to act in a fiduciary capacity.

(2) "Principal office" means:

(A) if there are one or more corporate trustees, an office of a corporate trustee in this state where the decision makers for the corporate trustee within this state conduct the daily affairs of the corporate trustee; or

(B) if there are multiple trustees, none of which is a corporate trustee, an office in this state that is not maintained within the personal residence of any trustee, and in which one or more trustees conducts the daily affairs of the trustees.

(2-a) The mere presence of an agent or representative of a trustee does not establish a principal office as defined by Subdivision (2). The principal office of a corporate trustee or the principal office maintained by multiple noncorporate trustees may also be but is not necessarily the same as the situs of administration of the trust.

(3) "Situs of administration" means the location in this state where the trustee maintains the office that is primarily responsible for dealing with the settlor and beneficiaries of the trust. The situs of administration may also be but is not necessarily the same as the principal office of a corporate trustee or the principal office maintained by multiple noncorporate

trustees.

Amended by Acts 1983, 68th Leg., p. 3332, ch. 567, art. 2, Sec. 2, eff. Jan. 1, 1984; Acts 1999, 76th Leg., ch. 344, Sec. 4.026, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 933, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 657 (S.B. [1197](#)), Sec. 5, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 699 (H.B. [2913](#)), Sec. 5, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 62 (S.B. [617](#)), Sec. 13, eff. September 1, 2017.

SUBCHAPTER B. PARTIES, PROCEDURE, AND JUDGMENTS

Sec. 115.011. PARTIES. (a) Any interested person may bring an action under Section 115.001 of this Act.

(b) Contingent beneficiaries designated as a class are not necessary parties to an action under Section [115.001](#). The only necessary parties to such an action are:

(1) a beneficiary of the trust on whose act or obligation the action is predicated;

(2) a beneficiary of the trust designated by name, other than a beneficiary whose interest has been distributed, extinguished, terminated, or paid;

(3) a person who is actually receiving distributions from the trust estate at the time the action is filed; and

(4) the trustee, if a trustee is serving at the time the action is filed.

(c) The attorney general shall be given notice of any proceeding involving a charitable trust as provided by Chapter [123](#) of this code.

(d) A beneficiary of a trust may intervene and contest the right of the plaintiff to recover in an action against the trustee as representative of the trust for a tort committed in the course of the trustee's administration or on a contract executed by the trustee.

Amended by Acts 1983, 68th Leg., p. 3332, ch. 567, art. 2, Sec. 2, eff. Jan. 1, 1984; Acts 1995, 74th Leg., ch. 172, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 148 (H.B. 1190), Sec. 23, eff. January 1, 2006.

Acts 2011, 82nd Leg., R.S., Ch. 657 (S.B. 1197), Sec. 6, eff. September 1, 2011.

Sec. 115.012. RULES OF PROCEDURE. Except as otherwise provided, all actions instituted under this subtitle are governed by the Texas Rules of Civil Procedure and the other statutes and rules that are applicable to civil actions generally.

Amended by Acts 1983, 68th Leg., p. 3332, ch. 567, art. 2, Sec. 2, eff. Jan. 1, 1984.

Sec. 115.013. PLEADINGS AND JUDGMENTS. (a) Actions and proceedings involving trusts are governed by this section.

(b) An affected interest shall be described in pleadings that give reasonable information to an owner by name or class, by reference to the instrument creating the interest, or in other appropriate manner.

(c) A person is bound by an order binding another in the following cases:

(1) an order binding the sole holder or all coholders of a power of revocation or a presently exercisable general power of appointment, including one in the form of a power of amendment, binds other persons to the extent their interests, as objects, takers in default, or otherwise are subject to the power;

(2) to the extent there is no conflict of interest between them or among persons represented:

(A) an order binding a guardian of the estate or a guardian ad litem binds the ward; and

(B) an order binding a trustee binds beneficiaries of the trust in proceedings to review the acts or accounts of a prior fiduciary and in proceedings involving creditors or other third parties;

(3) if there is no conflict of interest and no guardian of the estate or guardian ad litem has been appointed, a parent may represent his minor child as guardian ad litem or as next friend; and

(4) an unborn or unascertained person who is not otherwise represented is bound by an order to the extent his interest is adequately represented by another party having a substantially identical interest in the proceeding.

(d) Notice under Section [115.015](#) shall be given either to a person who will be bound by the judgment or to one who can bind that person under this section, and notice may be given to both. Notice may be given to unborn or unascertained persons who are not represented under Subdivision (1) or (2) of Subsection (c) by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons.

Amended by Acts 1983, 68th Leg., p. 3332, ch. 567, art. 2, Sec. 2, eff. Jan. 1, 1984.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 672 (H.B. [2368](#)), Sec. 4, eff. September 1, 2009.

Sec. 115.014. GUARDIAN OR ATTORNEY AD LITEM. (a) At any point in a proceeding a court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or person whose identity or address is unknown, if the court determines that representation of the interest otherwise would be inadequate. If there is not a conflict of interests, a guardian ad litem may be appointed to represent several persons or interests.

(b) At any point in a proceeding a court may appoint an attorney ad litem to represent any interest that the court considers necessary, including an attorney ad litem to defend an action under Section [114.083](#) for a beneficiary of the trust who is a minor or who has been adjudged incompetent.

(c) A guardian ad litem may consider general benefit accruing to the living members of a person's family.

(d) A guardian ad litem is entitled to reasonable compensation for services in the amount set by the court to be taxed as costs in the proceeding.

(e) An attorney ad litem is entitled to reasonable compensation for services in the amount set by the court in the manner provided by Section [114.064](#).

Amended by Acts 1983, 68th Leg., p. 3332, ch. 567, art. 2, Sec. 2, eff. Jan. 1, 1984.

Amended by:

Acts 2005, 79th Leg., Ch. 148 (H.B. [1190](#)), Sec. 24, eff. January 1, 2006.

Acts 2009, 81st Leg., R.S., Ch. 672 (H.B. [2368](#)), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 672 (H.B. [2368](#)), Sec. 6, eff. September 1, 2009.

Sec. 115.015. NOTICE TO BENEFICIARIES OF TORT OR CONTRACT PROCEEDING. (a) A court may not render judgment in favor of a plaintiff in an action on a contract executed by the trustee or in an action against the trustee as representative of the trust for a tort committed in the course of the trustee's administration unless the plaintiff proves that before the 31st day after the date the action began or within any other period fixed by the court that is more than 30 days before the date of the judgment, the plaintiff gave notice of the existence and nature of the action to:

(1) each beneficiary known to the trustee who then had a present or contingent interest; or

(2) in an action on a contract involving a charitable trust, the attorney general and any corporation that is a beneficiary or agency in the performance of the trust.

(b) The plaintiff shall give the notice required by Subsection (a) of this section by registered mail or by certified mail, return receipt requested, addressed to the party to be notified at the party's last known address. The trustee shall give the plaintiff a list of the beneficiaries or persons having an interest in the trust estate and their addresses, if known to the trustee, before the 11th day after the date the plaintiff makes a

written request for the information.

(c) The plaintiff satisfies the notice requirements of this section by notifying the persons on the list provided by the trustee.

Amended by Acts 1983, 68th Leg., p. 3332, ch. 567, art. 2, Sec. 2, eff. Jan. 1, 1984.

Sec. 115.016. NOTICE. (a) If notice of hearing on a motion or other proceeding is required, the notice may be given in the manner prescribed by law or the Texas Rules of Civil Procedure, or, alternatively, notice may be given to any party or to his attorney if the party has appeared by attorney or requested that notice be sent to his attorney.

(b) If the address or identity of a party is not known and cannot be ascertained with reasonable diligence, on order of the court notice may be given by publishing a copy of the notice at least three times in a newspaper having general circulation in the county where the hearing is to be held. The first publication of the notice must be at least 10 days before the time set for the hearing. If there is no newspaper of general circulation in the county where the hearing is to be held, the publication shall be made in a newspaper of general circulation in an adjoining county.

Added by Acts 1983, 68th Leg., p. 3332, ch. 567, art. 2, Sec. 2, eff. Jan. 1, 1984.

Sec. 115.017. WAIVER OF NOTICE. A person, including a guardian of the estate, a guardian ad litem, or other fiduciary, may waive notice by a writing signed by the person or his attorney and filed in the proceedings.

Added by Acts 1983, 68th Leg., p. 3332, ch. 567, art. 2, Sec. 2, eff. Jan. 1, 1984.