

1-1 By: Wray (Senate Sponsor - Rodríguez) H.B. No. 2246
1-2 (In the Senate - Received from the House May 2, 2019;
1-3 May 3, 2019, read first time and referred to Committee on Business
1-4 & Commerce; May 9, 2019, reported favorably by the following vote:
1-5 Yeas 8, Nays 0; May 9, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Hancock	X		
1-9	Nichols	X		
1-10	Campbell	X		
1-11	Creighton	X		
1-12	Menéndez	X		
1-13	Paxton	X		
1-14	Schwertner	X		
1-15	Whitmire		X	
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the fiduciary status of a directed trust advisor.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Section [114.0031](#), Property Code, is amended by
1-22 amending Subsection (e) and adding Subsection (e-1) to read as
1-23 follows:

1-24 (e) If the terms of a trust give a person the authority to
1-25 direct, consent to, or disapprove a trustee's actual or proposed
1-26 investment decisions, distribution decisions, or other decisions,
1-27 the person is ~~[considered to be]~~ an advisor. An advisor is [and] a
1-28 fiduciary regardless of trust terms to the contrary [when
1-29 exercising that authority] except that the trust terms may provide
1-30 that an advisor acts in a nonfiduciary capacity if:

1-31 (1) the advisor's only power is to remove and appoint
1-32 trustees, advisors, trust committee members, or other protectors;
1-33 and

1-34 (2) the advisor does not exercise that power to
1-35 appoint the advisor's self to a position described by Subdivision
1-36 (1).

1-37 (e-1) Subsection (e) does not prohibit the exercise of a
1-38 power in a nonfiduciary capacity as required by the Internal
1-39 Revenue Code for a grantor or other person to be treated as the
1-40 owner of any portion of the trust for federal income tax purposes.

1-41 SECTION 2. (a) Except as specifically provided by a trust
1-42 term in effect before September 1, 2019, the changes in law made by
1-43 this Act apply to a trust created before, on, or after September 1,
1-44 2019, with respect to an action taken or not taken on or after
1-45 September 1, 2019, by a trustee, custodian, or other person with
1-46 respect to the trust.

1-47 (b) An action taken or not taken with respect to a trust
1-48 before September 1, 2019, is governed by the law that applied to the
1-49 action taken or not taken immediately before September 1, 2019, and
1-50 that law is continued in effect for that purpose.

1-51 SECTION 3. This Act takes effect September 1, 2019.

1-52 * * * * *