

1-1 By: Allison (Senate Sponsor - Flores) H.B. No. 2333
 1-2 (In the Senate - Received from the House May 10, 2023;
 1-3 May 11, 2023, read first time and referred to Committee on Business
 1-4 & Commerce; May 19, 2023, reported favorably by the following vote:
 1-5 Yeas 10, Nays 0; May 19, 2023, sent to printer.)

1-6 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-7 | | | | |
| 1-8 | X | | | |
| 1-9 | X | | | |
| 1-10 | | | X | |
| 1-11 | X | | | |
| 1-12 | X | | | |
| 1-13 | X | | | |
| 1-14 | X | | | |
| 1-15 | X | | | |
| 1-16 | X | | | |
| 1-17 | X | | | |
| 1-18 | X | | | |

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to noncharitable trusts without an ascertainable
 1-22 beneficiary.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 111.004(4), Property Code, is amended to
 1-25 read as follows:

1-26 (4) "Express trust" means a fiduciary relationship
 1-27 with respect to property which arises as a manifestation by the
 1-28 settlor of an intention to create the relationship and which
 1-29 subjects the person holding title to the property to equitable
 1-30 duties to deal with the property:

1-31 (A) for the benefit of another person; or
 1-32 (B) for a particular purpose, in the case of a
 1-33 trust subject to Subchapter F.

1-34 SECTION 2. Chapter 112, Property Code, is amended by adding
 1-35 Subchapter F to read as follows:

1-36 SUBCHAPTER F. NONCHARITABLE TRUST WITHOUT ASCERTAINABLE
 1-37 BENEFICIARY

1-38 Sec. 112.121. VALIDITY OF TRUST; APPLICABILITY. (a) A
 1-39 trust may be created for a noncharitable purpose without a definite
 1-40 or definitely ascertainable beneficiary. A noncharitable purpose
 1-41 may include seeking economic or noneconomic benefits.

1-42 (b) This subchapter does not apply to a trust created under
 1-43 Section 112.037.

1-44 Sec. 112.122. ENFORCEMENT OF TRUST. (a) A trust created
 1-45 under this subchapter must be enforced by one or more persons
 1-46 appointed in the terms of the trust to serve as a trust enforcer.

1-47 (b) A trust enforcer shall enforce the purpose and terms of
 1-48 the trust. The trust enforcer is not a beneficiary of the trust,
 1-49 but has the rights of a beneficiary provided under this title and
 1-50 the common law of this state, or as otherwise provided by the terms
 1-51 of the trust.

1-52 (c) A trust enforcer shall exercise any authority granted
 1-53 under the terms of the trust or the provisions of this section as a
 1-54 fiduciary owing a duty to the trust and is entitled to reasonable
 1-55 compensation for serving as trust enforcer.

1-56 (d) A trust enforcer may consent to, waive, object to, or
 1-57 petition an appropriate court concerning any matter regarding the
 1-58 purpose or administration of the trust.

1-59 (e) Except as otherwise provided by the terms of the trust,
 1-60 if more than one person is acting as a trust enforcer, any action in
 1-61 that capacity must be decided by the majority vote of the persons

2-1 acting as trust enforcers. If there are an even number of trust
2-2 enforcers and a majority vote cannot be established, the decision
2-3 of the trustee controls.

2-4 (f) The terms of the trust may provide for the succession of
2-5 a trust enforcer or a process of appointing any successor trust
2-6 enforcer.

2-7 (g) If no person is serving as a trust enforcer for a trust
2-8 created under this subchapter, a court properly exercising
2-9 jurisdiction shall appoint one or more persons to serve as the trust
2-10 enforcer.

2-11 Sec. 112.123. APPLICATION OR DISTRIBUTION OF TRUST
2-12 PROPERTY. (a) Property of a trust created under this subchapter
2-13 may be applied only to the intended purpose of the trust, except to
2-14 the extent that a court finds that the value of the trust property
2-15 exceeds the amount required for the intended purpose of the trust.

2-16 (b) Except as provided by the terms of the trust, property
2-17 found by a court not to be required for the trust's intended purpose
2-18 shall be distributed:

2-19 (1) as provided by the terms of the trust; or

2-20 (2) if the trust does not provide for the distribution
2-21 of such property, to the settlor if then living or to the settlor's
2-22 successors in interest.

2-23 SECTION 3. Subchapter F, Chapter 112, Property Code, as
2-24 added by this Act, applies only to a trust created on or after the
2-25 effective date of this Act.

2-26 SECTION 4. This Act takes effect immediately if it receives
2-27 a vote of two-thirds of all the members elected to each house, as
2-28 provided by Section 39, Article III, Texas Constitution. If this
2-29 Act does not receive the vote necessary for immediate effect, this
2-30 Act takes effect September 1, 2023.

2-31 * * * * *