

SB 353

Senate Bill No. 353
As Amended

SENATE BILL NO. 353 - By: FISHER of the Senate and TYLER of the House.

An Act relating to property; amending 60 O.S. 1991, Section 175.23, as last amended by Section 22, Chapter 351, O.S.L. 1995 (60 O.S. Supp. 2000, Section 175.23), which relates to venue in trust actions; clarifying language; modifying venue; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 60 O.S. 1991, Section 175.23, as last amended by Section 22, Chapter 351, O.S.L. 1995 (60 O.S. Supp. 2000, Section 175.23), is amended to read as follows:

Section 175.23 A. The district court shall have original jurisdiction to construe the provisions of any trust instrument; to determine the law applicable thereto; the powers, duties, and liability of a trustee; the existence or nonexistence of facts affecting the administration of the trust estate; to require accounting by ~~trustees~~ a trustee; to surcharge a trustee; and in its discretion to supervise the administration of trusts; and all actions hereunder are declared to be proceedings in rem.

B. The venue of such actions shall be in ~~the~~ any county ~~where the trustees or any cotrustee resides.~~ Upon obtaining jurisdiction ~~the same shall not be divested by the removal of the trustee from~~

1 ~~the county where the action is commenced~~ **in this state** in which any
2 trustee, beneficiary, or any person affected by the administration
3 of the trust estate resides, if a natural person, or in any county
4 **in this state** in which any trustee, beneficiary, or other person
5 affected by the administration of the trust estate, if a legal
6 entity, has its principal place of business in this state.

7 C. Actions hereunder may be brought by a trustee, beneficiary,
8 or any person affected by the administration of the trust estate.
9 If the action is predicated upon any act or obligation of any
10 beneficiary, the beneficiary shall be a necessary party to the
11 proceedings. The only necessary parties to ~~such~~ the actions shall
12 be those persons designated as beneficiaries by name or class in the
13 instrument creating the trust and who have a vested interest in the
14 trust which is the subject of the action, those persons currently
15 serving as trustees of the trust, and any persons who may be
16 actually receiving distributions from the trust estate at the time
17 the action is filed. Contingent beneficiaries designated by name or
18 class shall not be necessary parties.

19 D. The provisions of the statutes governing civil procedure,
20 commencement of action, process, process by publication, appointment
21 of guardians ad litem, supersedeas and appeal, shall govern all
22 actions and proceedings brought under the provisions of ~~this act~~
23 Section 175.1 et seq. of this title.

1 E. A court of competent jurisdiction may, for cause shown and
2 upon notice to the beneficiaries, relieve a trustee from any or all
3 of the duties and restrictions which would otherwise be placed upon
4 the trustee by this act, or wholly or partly excuse a trustee who
5 has acted honestly and reasonably from liability for violations of
6 the provisions of ~~this act~~ Section 175.1 et seq. of this title.

7 SECTION 2. This act shall become effective November 1, 2001.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-13-01 - DO
9 PASS, As Amended and Coauthored.