

TRUST MODIFICATIONS: BALANCING COMPETING INTERESTS

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**OLD SCHOOL
V.
NEW SCHOOL**





2017 LEGISLATIVE CHANGES

TEXAS TRUST CODE § 112.054



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TEXAS TRUST CODE § 112.054



SECTION 112.054(b-1)



Permits a court to order reformation of the terms of a trust if:

- reformation of administrative, nondispositive terms of the trust is necessary or appropriate to prevent waste or impairment of the trust's administration;
- reformation is necessary or appropriate to achieve the settlor's tax objectives or to qualify a distributee for governmental benefits and is not contrary to the settlor's intentions; or
- reformation is necessary to correct a scrivener's error in the governing document, even if unambiguous, to conform the terms to the settlor's intent.

Note: A scrivener's error must be established by clear and convincing evidence.



SECTION 112.054(f)



Added to clarify that:

- § 112.054(b-1) is not intended to state the exclusive basis for reformation of trusts; and
- The bases for reformation of trusts in equity or common law are not affected by § 112.054.



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