



# **Perspectives from the Office of the Attorney General Nonprofit Organization Oversight**

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## **Overview**

- ▶ Attorney General's authority
- ▶ How can the AG help? How can you help the AG?
- ▶ Tips to facilitate communication with the AG and assist with your trust proceeding
- ▶ Common concerns: restricted gifts and unnecessary modifications
- ▶ Questions



## Attorney General Authority

- ▶ The power and authority of the Attorney General in matters involving charitable trusts is deeply rooted in Texas common law.

*Coffee v. William Marsh Rice University*, 403 S.W.2d 340,343 (Tex. 1966).

- ▶ This broad authority and duty to protect the public interest in charity by suing in courts of equity is routinely and uniformly recognized by Texas courts.

*Powers v. First National Bank of Corsicana*, 161 S.W.2d 273, 284 (Tex. 1942); *Carroll v. City of Beaumont*, 18 S.W.2d 813,820 (Tex. Civ.App.-Beaumont 1929, writ ref'd).



## Constitutional Roots of AG Authority

- ▶ Attorney General's authority to protect the public interest in charity is a function belonging to the AG's office under the Constitution and laws of this state. *Hill v. Lower Colorado River Authority*, 568 S.W.2d 473, 478 (Tex.Civ.App.-Austin 1978, writ ref'd n.r.e.)
- ▶ Such authority falls under the umbrella clause in Article IV, Section 22 of the Texas Constitution enumerating AG's specific duties and stating that the Attorney General shall: "perform such other duties as may be required by law."



## Statutory Authority

Chapter 123 of Texas Property Code codifies AG's common law authority.

- Attorney General's participation in "proceedings involving charitable trusts."
- Attorney General is a proper (not a necessary) party and may join and enter into settlements and judgments in the proceeding. § 123.002



## Notice to the Attorney General – Chapter 123

Notice of the proceeding must be given to the Attorney General:

- Within 30 days of filing of the petition initiating the proceeding involving a charitable trust;
- But no less than 25 days prior to a hearing in the proceeding. § 123.003(a);
- Send copy of petition by registered or certified mail;
- Execute affidavit attaching signed return receipts and file with the court.

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