

Texas Property Code

Chap. 112. Creation, Validity, Modification, and Termination of Trusts

- §112.002: A trust is created only if the settlor manifests an intention to create a trust.
- §112.004: A trust in either real or personal property is enforceable only if there is written evidence of the trust's terms bearing the signature of the settlor or the settlor's authorized agent.
- §112.051(a) A settlor may revoke the trust unless it is irrevocable by the express terms of the instrument creating it or of an instrument modifying it.

Art. 1396. Texas Non-Profit Corporation Act

Art. 1396-2.14. Board of Directors

- A. The affairs of a corporation shall be managed by a board of directors. . . .
- B. Boards of directors of religious, charitable, educational, or eleemosynary institutions may be affiliated with, elected and controlled by a convention, conference or association

Art. 1396-2.15. Number, Election, Classification, and Removal of Directors

- B. [D]irectors shall be elected, appointed, or designated in the manner and for the terms provided in the articles of incorporation or the by-laws. . . .
- C. Unless removed in accordance with the provisions of the articles of incorporation or the by-laws, each director shall hold office for the term for which he is elected . . .
- D. . . . A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation or by-laws. . . .

Art. 1396-2.16. Vacancies

- A. Unless otherwise provided in the articles of incorporation or the by-laws, any vacancy occurring in the board of directors shall be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board of directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Art. 1396-4.01. Right to Amend Articles of Incorporation

- A. A corporation may amend its articles of incorporation from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under this Act.

CONSTITUTION OF THE EPISCOPAL DIOCESE OF FORT WORTH

ARTICLE 1

AUTHORITY OF GENERAL CONVENTION

The Church in this Diocese accedes to the Constitution and Canons of the Episcopal Church in the United States and recognizes the authority of the General Convention of said Church.

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ARTICLE 4

SPECIAL MEETINGS OF CONVENTION

The Bishop, or a majority of all members of the Standing Committee, may call a special meeting of the Convention upon thirty days' notice thereof.

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ARTICLE 13

TITLE TO CHURCH PROPERTY

The title to all real estate acquired for the use of the Church in this Diocese, including the real property of all parishes and missions, as well as Diocesan Institutions, shall be held subject to control of the Church in the Episcopal Diocese of Fort Worth acting by and through a corporation known as "Corporation of the Episcopal Diocese of Fort Worth." All such property as well as all property hereafter acquired for the use of the Church and the Diocese, including parishes and missions shall be vested in Corporation of the Episcopal Diocese of Fort Worth.

The Corporation of the Episcopal Diocese of Fort Worth shall hold real property acquired for the use of a particular parish or mission in trust for the use and benefit of such parish or mission. The

income from such property shall belong to such parish or mission, which will be responsible for expenses attributable thereto. Such property may not be conveyed, leased, or encumbered by the Corporation of the Episcopal Diocese of Fort Worth without the consent of the Rector, Wardens and Vestry of such parish or mission. Upon dissolution of such parish or mission, property held in trust for it shall revert to said Corporation for the use and benefit of the Diocese, as such.

All other property belonging to the Diocese, as such, shall be held in the name of the corporation known as "Corporation of the Episcopal Diocese of Fort Worth," and no conveyance or encumbrance of any kind shall be valid unless executed by such corporation and as may otherwise be provided by the Canons of the Diocese.

CANONS OF THE EPISCOPAL DIOCESE OF FORT WORTH [1989]

SECTION 18

TITLE TO PROPERTY

Sec. 4. Property held by the Corporation for the use of a Parish, Mission or Diocesan School belongs beneficially to such Parish, Mission or Diocesan School only. No adverse claim to such beneficial interest by the Corporation, by the Diocese, or by The Episcopal Church of the United States of America is acknowledged, but rather is expressly denied. All other property of the Corporation [is] held for the Episcopal Diocese of Fort Worth for those exempt religious purposes within the meaning of the Internal Revenue Code, as herein above described. Such exempt religious purposes shall be those determined by the Convention of the Episcopal Diocese of Fort Worth and the appropriate officers elected by it. No adverse claim to such beneficial interest by The Episcopal Church of the United States of America is acknowledged, but rather is expressly denied.

CONSTITUTION OF THE EPISCOPAL CHURCH

ARTICLE II

Sec. 1. In every Diocese the Bishop or the Bishop Coadjutor shall be chosen agreeably to rules prescribed by the Convention of that Diocese. Bishops of Missionary Dioceses shall be chosen in accordance with the Canons of the General Convention.

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Sec. 3. A Bishop shall confine the exercise of such office to the Diocese in which elected, unless requested to perform episcopal acts in another Diocese by the Ecclesiastical Authority thereof, or unless authorized by the House of Bishops, or by the Presiding Bishop by its direction, to act temporarily in case of need within any territory not yet organized into Dioceses of this Church..

CANONS OF THE EPISCOPAL CHURCH

TITLE III, CANON 12

(e) No Bishop shall perform episcopal acts or officiate by preaching, ministering the Sacraments, or holding any public service in a Diocese other than that in which the Bishop is canonically resident, without permission or a license to perform occasional public services from the Ecclesiastical Authority of the Diocese in which the Bishop desires to officiate or perform episcopal acts.

EPISCOPAL CASES

Case	Year	Diocese or Bishop a Party?	TEC a Party?
<i>Diocese of Sw. Va. of Protestant Epis. Church v. Buhrman</i> , 1977 WL 191134 (Va.Cir.Ct. 1977)	1977	Yes	No
<i>Diocese of Newark v. Burns</i> , 417 A.2d 31 (N.J.)	1980	Yes	No
<i>Protestant Epis. Diocese of N.J. v. Graves</i> , 417 A.2d 19 (N.J.)	1980	Yes	No
<i>Tea v. Protestant Epis. Diocese of Nev.</i> , 610 P.2d 182 (Nev.)	1980	Yes	No
<i>Protestant Epis. Church v. Barker</i> , 171 Cal.Rptr. 541 (Cal.Ct.App.)	1981	Yes	Yes
<i>Bennison v. Sharp</i> , 329 N.W.2d 466 (Mich. Ct. App.)	1982	Yes	No
<i>Bishop and Diocese of Colorado v. Mote</i> , 716 P.2d 85 (Colo.)	1986	Yes	No
<i>Bjorkman v. Protestant Epis. Diocese of Lexington</i> , 759 S.W.2d 583 (Ky.)	1988	Yes	No
<i>Rector, et al. of Trinity-St. Michael's Parish, Inc. v. Epis. Church in the Diocese of Conn.</i> , 620 A.2d 1280 (Conn.)	1993	Yes	No
<i>Bd. of Managers of Diocesan Missionary v. Church of Holy Comforter</i> , 628 N.Y.S.2d 471 (N.Y. Sup. Ct.)	1993	Yes	No
<i>Parish of the Advent v. Protestant Epis. Diocese of Mass.</i> , 688 N.E.2d 923 (Mass.)	1997	Yes	No
<i>Trustees of Diocese of Albany v. Trinity Epis. Church of Gloversville</i> , 684 N.Y.S.2d 76 (N.Y. App. Div.)	1999	Yes	No
<i>Dixon v. Edwards</i> , 290 F.3d 699 (4th Cir.)	2002	Yes	No
<i>Epis. Diocese of Mass. v. DeVine</i> , 797 N.E.2d 916 (Mass. App. Ct.)	2003	Yes	No
<i>Daniel v. Wray</i> , 580 S.E.2d 711 (N.C. Ct. App.)	2003	Yes	No
<i>In re Church of St. James the Less</i> , 888 A.2d 795 (Pa.)	2005	Yes	No
<i>New v. Kroeger</i> , 84 Cal. Rptr. 3d 464 (Cal. Ct. App.)	2008	Yes	No
<i>Epis. Diocese of Rochester v. Harnish</i> , 899 N.E.2d 920 (N.Y.)	2008	Yes	No
<i>In re Epis. Church Cases</i> , 198 P.3d 66 (Cal.)	2009	Yes	Intervenor
<i>All Saints Parish Waccamaw v. Protestant Epis. Church in Diocese of S.C.</i> , 685 S.E.2d 163 (S.C.)	2009	Yes	Yes
<i>Protestant Epis. Diocese of Va. v. Truro Church</i> , 694 S.E.2d 555 (Va.)	2010	Yes	No
<i>Schofield v. Superior Court</i> , 118 Cal.Rptr.3d 160 (Cal. Ct. App.)	2010	Yes	Yes
<i>Rector, et al. of Christ Church in Savannah v. Bishop of Epis. Diocese of Ga., Inc.</i> , 718 S.E.2d 237 (Ga.)	2011	Yes	Intervenor
<i>Epis. Church in Diocese of Conn. v. Gauss</i> , 28 A.3d 288 (Conn.)	2011	Yes	Yes
<i>Convention of Protestant Episcopal Diocese of Tenn. v. Rector, et al. of St. Andrew's Parish</i> , 2012 WL 1454846 (Ten.Ct.App.)	2012	Yes	No