

By: Smithee

H.B. No. 2821

Substitute the following for H.B. No. 2821:

By: Schofield

C.S.H.B. No. 2821

A BILL TO BE ENTITLED

1 AN ACT
2 relating to decedents' estates and the delivery of certain notices
3 or other communications in connection with those estates or
4 multiple-party accounts.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 22, Estates Code, is amended by adding
7 Section 22.0295 to read as follows:

8 Sec. 22.0295. QUALIFIED DELIVERY METHOD. "Qualified
9 delivery method" means delivery by:

10 (1) hand delivery by courier, with courier's proof of
11 delivery receipt;

12 (2) certified or registered mail, return receipt
13 requested, with return receipt; or

14 (3) a private delivery service designated as a
15 designated delivery service by the United States Secretary of the
16 Treasury under Section 7502(f)(2), Internal Revenue Code of 1986,
17 with proof of delivery receipt.

18 SECTION 2. The heading to Section 51.052, Estates Code, is
19 amended to read as follows:

20 Sec. 51.052. SERVICE BY MAIL OR PRIVATE DELIVERY.

21 SECTION 3. Sections 51.052(b), (c), (d), (e), (f), and (g),
22 Estates Code, are amended to read as follows:

23 (b) Except as provided by Subsection (c), the county clerk
24 shall issue a citation or notice required or permitted to be served

1 by a qualified delivery method [~~registered or certified mail~~] and
2 shall serve the citation or notice by sending [~~mailing~~] the
3 original citation or notice by a qualified delivery method
4 [~~registered or certified mail~~].

5 (c) A personal representative shall issue a notice required
6 to be given by the representative by a qualified delivery method
7 [~~registered or certified mail~~] and shall serve the notice by
8 sending [~~mailing~~] the original notice by a qualified delivery
9 method [~~registered or certified mail~~].

10 (d) The county clerk or personal representative, as
11 applicable, shall send [~~mail~~] a citation or notice under Subsection
12 (b) or (c) with an instruction to deliver the citation or notice to
13 the addressee only and with return receipt or other proof of
14 delivery requested. The clerk or representative, as applicable,
15 shall address the envelope containing the citation or notice to:

16 (1) the attorney of record in the proceeding for the
17 person to be cited or notified; or

18 (2) the person to be cited or notified, if the citation
19 or notice to the attorney is returned undelivered or the person to
20 be cited or notified has no attorney of record in the proceeding.

21 (e) Service by a qualified delivery method [~~mail~~] shall be
22 made at least 20 days before the return day of the service,
23 excluding the date of service. The date of service [~~by mail~~] is the
24 date of mailing, the date of deposit with the private delivery
25 service, or the date of delivery by the courier, as applicable.

26 (f) A copy of a citation or notice served under Subsection
27 (a), (b), or (c), together with a certificate of the person serving

1 the citation or notice showing that the citation or notice was sent
2 ~~[mailed]~~ and the date of the mailing, date of deposit with a private
3 delivery service, or date of delivery by courier, as applicable,
4 shall be filed and recorded. A returned receipt or proof of
5 delivery receipt for a citation or notice served under Subsection
6 (b) or (c) shall be attached to the certificate.

7 (g) If a citation or notice served by a qualified delivery
8 method ~~[mail]~~ is returned undelivered, a new citation or notice
9 shall be issued. Service of the new citation or notice must be made
10 by posting.

11 SECTION 4. Section 51.055(a), Estates Code, is amended to
12 read as follows:

13 (a) If a party is represented by an attorney of record in a
14 probate proceeding, each citation or notice required to be served
15 on the party in that proceeding shall be served instead on that
16 attorney. A notice under this subsection may be served by delivery
17 to the attorney in person or by a qualified delivery method
18 ~~[registered or certified mail]~~.

19 SECTION 5. Section 51.056, Estates Code, is amended to read
20 as follows:

21 Sec. 51.056. SERVICE ON PERSONAL REPRESENTATIVE OR
22 RECEIVER. Unless this title expressly provides for another method
23 of service, the county clerk who issues a citation or notice
24 required to be served on a personal representative or receiver
25 shall serve the citation or notice by sending ~~[mailing]~~ the
26 original citation or notice by a qualified delivery method
27 ~~[registered or certified mail]~~ to:

1 (1) the representative's or receiver's attorney of
2 record; or

3 (2) the representative or receiver, if the
4 representative or receiver does not have an attorney of record.

5 SECTION 6. Section 51.103(b), Estates Code, is amended to
6 read as follows:

7 (b) Proof of service consists of:

8 (1) if the service is made by a sheriff or constable,
9 the return of service;

10 (2) if the service is made by a private person, the
11 person's affidavit;

12 (3) if the service is made by a qualified delivery
13 method [~~mail~~]:

14 (A) the certificate of the county clerk making
15 the service, or the affidavit of the personal representative or
16 other person making the service, stating that the citation or
17 notice was mailed, deposited with a private delivery service, or
18 delivered by courier, as applicable, and the date of the mailing or
19 deposit with the delivery service or the date of the courier
20 delivery, as applicable; and

21 (B) the return receipt or other proof of delivery
22 receipt attached to the certificate or affidavit, as applicable, if
23 the sending [~~mailing~~] was by a qualified delivery method
24 [~~registered or certified mail~~] and a receipt is available [~~has been~~
25 ~~returned~~]; and

26 (4) if the service is made by publication:

27 (A) a statement:

1 (i) made by the Office of Court
2 Administration of the Texas Judicial System or an employee of the
3 office;

4 (ii) that contains or to which is attached a
5 copy of the published citation or notice; and

6 (iii) that states the date of publication
7 on the public information Internet website maintained as required
8 by Section 72.034, Government Code~~[, as added by Chapter 606 (S.B.
9 891), Acts of the 86th Legislature, Regular Session, 2019]~~; and

10 (B) an affidavit:

11 (i) made by the publisher of the newspaper
12 in which the citation or notice was published or an employee of the
13 publisher;

14 (ii) that contains or to which is attached a
15 copy of the published citation or notice; and

16 (iii) that states the date of publication
17 printed on the newspaper in which the citation or notice was
18 published.

19 SECTION 7. Section 56.002(b), Estates Code, is amended to
20 read as follows:

21 (b) The resident agent shall send, by a qualified delivery
22 method ~~[certified mail, return receipt requested]~~, a copy of a
23 resignation statement filed under Subsection (a) to:

24 (1) the personal representative at the address most
25 recently known by the resident agent; and

26 (2) each party in the case or the party's attorney or
27 other designated representative of record.

1 SECTION 8. The heading to Section 101.052, Estates Code, is
2 amended to read as follows:

3 Sec. 101.052. LIABILITY OF COMMUNITY PROPERTY FOR DEBTS [~~OF~~
4 ~~DECEASED SPOUSE~~].

5 SECTION 9. Section 101.052, Estates Code, is amended by
6 amending Subsections (a) and (b) and adding Subsection (a-1) to
7 read as follows:

8 (a) The community property that was by law under [~~subject~~
9 ~~to~~] the sole management, control, and disposition of a spouse or
10 under the joint management, control, and disposition of the spouses
11 [a spouse] during marriage continues to be subject to the
12 liabilities of that spouse on the death of either spouse.

13 (a-1) The undivided one-half interest that the surviving
14 spouse owned in community property that was by law under the sole
15 management, control, and disposition of the deceased spouse during
16 marriage is subject to the liabilities of the surviving spouse on
17 the death of the deceased spouse.

18 (b) The undivided one-half interest that the deceased
19 spouse owned in [~~any other nonexempt~~] community property that was
20 by law under the sole management, control, and disposition of the
21 surviving spouse during marriage passes to the deceased spouse's
22 heirs or devisees charged with the liabilities of [~~debts that were~~
23 ~~enforceable against~~] the deceased spouse [~~before death~~].

24 SECTION 10. Sections 113.001(1) and (8), Estates Code, are
25 amended to read as follows:

26 (1) "Account" means a contract of deposit of funds or
27 securities between a depositor and a financial institution. The

1 term includes:

2 (A) an account with cash deposits, including a
3 checking account, savings account, certificate of deposit, and
4 share account;

5 (B) an account holding securities, including
6 stocks, bonds, and mutual funds; and

7 (C) another [~~or other~~] similar arrangement.

8 (8) "Sums on deposit" means the balance payable or
9 transferable on a multiple-party account including cash, interest,
10 dividends, any type of securities, including stocks, bonds, and
11 mutual funds, and any deposit of life insurance proceeds added to
12 the account by reason of the death of a party.

13 SECTION 11. Section 113.251(c), Estates Code, is amended to
14 read as follows:

15 (c) Not later than the 30th day after the date a security
16 interest on a multiple-party account is perfected, a secured
17 creditor that is a financial institution with accounts insured by
18 the Federal Deposit Insurance Corporation shall provide written
19 notice of the pledge of the account to any other party to the
20 account who did not create the security interest. The notice must
21 be sent by a qualified delivery method [~~certified mail~~] to each
22 other party at the last address the party provided to the depository
23 bank.

24 SECTION 12. Section 202.005, Estates Code, is amended to
25 read as follows:

26 Sec. 202.005. APPLICATION FOR PROCEEDING TO DECLARE
27 HEIRSHIP. A person authorized by Section 202.004 to commence a

1 proceeding to declare heirship must file an application in a court
2 specified by Section 33.004 to commence the proceeding. The
3 application must state:

4 (1) the decedent's name and date and place of death;

5 (2) the names and physical addresses where service can
6 be had of the decedent's heirs, the relationship of each heir to the
7 decedent, whether each heir is an adult or minor, and the true
8 interest of the applicant and each of the heirs in the decedent's
9 estate or in the trust, as applicable;

10 (3) if the date or place of the decedent's death or the
11 name or physical address where service can be had of an heir is not
12 definitely known to the applicant, all the material facts and
13 circumstances with respect to which the applicant has knowledge and
14 information that might reasonably tend to show the date or place of
15 the decedent's death or the name or physical address where service
16 can be had of the heir;

17 (4) that all children born to or adopted by the
18 decedent have been listed;

19 (5) that each of the decedent's marriages has been
20 listed with:

21 (A) the date of the marriage;

22 (B) the name of the spouse;

23 (C) the date and place of termination if the
24 marriage was terminated; and

25 (D) other facts to show whether a spouse has had
26 an interest in the decedent's property;

27 (6) whether the decedent died testate and, if so, what

1 disposition has been made of the will;

2 (7) a general description of all property, as
3 applicable:

4 (A) belonging to the decedent's estate that is
5 subject to distribution under a judgment in the proceeding; or

6 (B) held in trust for the benefit of the
7 decedent [~~as applicable~~]; and

8 (8) an explanation for the omission from the
9 application of any of the information required by this section.

10 SECTION 13. Section 202.051, Estates Code, is amended to
11 read as follows:

12 Sec. 202.051. SERVICE OF CITATION BY QUALIFIED DELIVERY
13 METHOD [~~MAIL~~] WHEN RECIPIENT'S NAME AND ADDRESS ARE KNOWN OR
14 ASCERTAINABLE. Except as provided by Section 202.054, citation in
15 a proceeding to declare heirship must be served by a qualified
16 delivery method [~~registered or certified mail~~] on:

17 (1) each distributee who is 12 years of age or older
18 and whose name and address are known or can be ascertained through
19 the exercise of reasonable diligence; and

20 (2) the parent, managing conservator, or guardian of
21 each distributee who is younger than 12 years of age if the name and
22 address of the parent, managing conservator, or guardian are known
23 or can be reasonably ascertained.

24 SECTION 14. Section 202.056, Estates Code, is amended to
25 read as follows:

26 Sec. 202.056. WAIVER OF SERVICE OF CITATION. (a) A [~~Except~~
27 ~~as provided by Subsection (b)(2), a~~] distributee who is 16 years of

1 age or older may waive citation required by this subchapter to be
2 served on the distributee.

3 (b) A parent, managing conservator, guardian, attorney ad
4 litem, or guardian ad litem of a [~~minor~~] distributee who is younger
5 than 16 years of age may [~~+~~

6 [~~(1) is younger than 12 years of age may~~] waive
7 citation required by this subchapter to be served on the
8 distributee[~~+~~ and

9 [~~(2) is 12 years of age or older may not waive citation~~
10 ~~required by this subchapter to be served on the distributee~~].

11 SECTION 15. Section 202.151, Estates Code, is amended by
12 amending Subsections (b) and (c) and adding Subsection (d) to read
13 as follows:

14 (b) Except as provided by Subsection (c), in a proceeding to
15 declare heirship, testimony regarding a decedent's heirs and family
16 history must be taken:

17 (1) from two disinterested and credible witnesses in
18 open court;

19 (2) [~~+~~] by deposition in accordance with Section
20 51.203;

21 (3) by a recorded statement of facts contained in:

22 (A) an affidavit or instrument that satisfies the
23 requirements of Section 203.001; or

24 (B) a judgment of a court of record as specified
25 by Section 203.001(a)(1)(B); [~~+~~] or

26 (4) in accordance with the Texas Rules of Civil
27 Procedure.

1 (c) If it is shown to the court's satisfaction in a
2 proceeding to declare heirship that, after a diligent search was
3 made, only one disinterested and credible witness can be found who
4 can make the required proof in the proceeding, the testimony of that
5 witness must be taken:

6 (1) in open court;

7 (2) by deposition in accordance with Section
8 51.203;

9 (3) by a recorded statement of facts contained in:

10 (A) an affidavit or instrument that satisfies the
11 requirements of Section 203.001; or

12 (B) a judgment of a court of record as specified
13 by Section 203.001(a)(1)(B); or

14 (4) in accordance with the Texas Rules of Civil
15 Procedure.

16 (d) Notwithstanding any other law, a person interested in an
17 estate solely because the person is a creditor or has a claim
18 against the estate may serve as a witness under this section if the
19 person is otherwise a credible witness.

20 SECTION 16. Section 202.203, Estates Code, is amended to
21 read as follows:

22 Sec. 202.203. CORRECTION OF JUDGMENT AT REQUEST OF HEIR NOT
23 PROPERLY SERVED. If an heir of a decedent who is the subject of a
24 proceeding to declare heirship is not served with citation by a
25 qualified delivery method [~~registered or certified mail~~] or
26 personal service in the proceeding, the heir may:

27 (1) have the judgment in the proceeding corrected by

1 bill of review:

2 (A) at any time, but not later than the fourth
3 anniversary of the date of the judgment; or

4 (B) after the passage of any length of time, on
5 proof of actual fraud; and

6 (2) recover the heir's just share of the property or
7 the value of that share from:

8 (A) the heirs named in the judgment; and

9 (B) those who claim under the heirs named in the
10 judgment and who are not bona fide purchasers for value.

11 SECTION 17. Section 251.053, Estates Code, is amended to
12 read as follows:

13 Sec. 251.053. EXCEPTION FOR FOREIGN AND CERTAIN OTHER
14 WILLS. A [Section 251.051 does not apply to a] written will does
15 not need to meet the requirements of Section 251.051 if the will is
16 executed in compliance with:

17 (1) the law of the state or foreign country where the
18 will was executed, as that law existed at the time of the will's
19 execution; or

20 (2) the law of the state or foreign country where the
21 testator was domiciled or had a place of residence, as that law
22 existed at the time of the will's execution or at the time of the
23 testator's death.

24 SECTION 18. Section 258.002, Estates Code, is amended by
25 adding Subsections (d) and (e) to read as follows:

26 (d) An heir who is 16 years of age or older may waive
27 citation required by this section to be served on the heir.

1 (e) The parent, managing conservator, guardian, attorney ad
2 litem, or guardian ad litem of an heir who is younger than 16 years
3 of age may waive citation required by this section to be served on
4 the heir.

5 SECTION 19. Section 304.003, Estates Code, is amended to
6 read as follows:

7 Sec. 304.003. PERSONS DISQUALIFIED TO SERVE AS EXECUTOR OR
8 ADMINISTRATOR. A person is not qualified to serve as an executor
9 or administrator if the person is:

10 (1) incapacitated;

11 (2) a felon convicted under the laws of the United
12 States or of any state of the United States unless: [7]

13 (A) in accordance with law, the person has been
14 pardoned or has had the person's civil rights restored; or

15 (B) all of the distributees of the decedent agree
16 on and collectively designate the person to serve as executor or
17 administrator of the decedent's estate and acknowledge the
18 conviction in:

19 (i) an application for probate of the
20 decedent's will;

21 (ii) an application for letters
22 testamentary or of administration of the decedent's estate; or

23 (iii) one or more separate documents
24 consenting to an application;

25 (3) a nonresident of this state who:

26 (A) is a natural person or corporation; and

27 (B) has not:

1 (i) appointed a resident agent to accept
2 service of process in all actions or proceedings with respect to the
3 estate; or

4 (ii) had that appointment filed with the
5 court;

6 (4) a corporation not authorized to act as a fiduciary
7 in this state; or

8 (5) a person whom the court finds unsuitable.

9 SECTION 20. Section 305.001, Estates Code, is amended to
10 read as follows:

11 Sec. 305.001. DEFINITIONS. In this chapter:

12 (1) "Bond" means a bond required by this chapter to be
13 given by a person appointed to serve as a personal representative.

14 (2) "Declaration" means a written declaration that may
15 be made and signed by a person appointed to serve as a personal
16 representative.

17 (3) "Oath" means an oath that may ~~[required by this~~
18 ~~chapter to]~~ be taken by a person appointed to serve as a personal
19 representative.

20 SECTION 21. Section 305.002, Estates Code, is amended to
21 read as follows:

22 Sec. 305.002. MANNER OF QUALIFICATION OF PERSONAL
23 REPRESENTATIVE. (a) A personal representative, other than an
24 executor described by Subsection (b), is considered to have
25 qualified when the representative has:

26 (1) taken and filed the oath prescribed by Subchapter
27 B or made, signed, and filed the declaration prescribed by

1 Subchapter B;

2 (2) filed the required bond with the clerk; and

3 (3) obtained the judge's approval of the bond.

4 (b) An executor who is not required to give a bond is
5 considered to have qualified when the executor has taken and filed
6 the oath prescribed by Subchapter B or made, signed, and filed the
7 declaration prescribed by Subchapter B.

8 SECTION 22. Section 305.003, Estates Code, is amended to
9 read as follows:

10 Sec. 305.003. PERIOD FOR TAKING OATH OR MAKING AND SIGNING
11 DECLARATION. An oath may be taken and subscribed or a declaration
12 may be made and signed at any time before:

13 (1) the 21st day after the date of the order granting
14 letters testamentary or of administration, as applicable; or

15 (2) the letters testamentary or of administration, as
16 applicable, are revoked for a failure to qualify within the period
17 allowed.

18 SECTION 23. The heading to Subchapter B, Chapter 305,
19 Estates Code, is amended to read as follows:

20 SUBCHAPTER B. OATHS OR DECLARATIONS

21 SECTION 24. Section 305.051, Estates Code, is amended to
22 read as follows:

23 Sec. 305.051. OATH OR DECLARATION OF EXECUTOR OR
24 ADMINISTRATOR WITH WILL ANNEXED. (a) Before the issuance of
25 letters testamentary or letters of administration with the will
26 annexed, the person named as executor or appointed as administrator
27 with the will annexed shall:

1 (1) take and subscribe an oath as prescribed by
2 Subsection (b); or

3 (2) make and sign a declaration as prescribed by
4 Subsection (c).

5 (b) If the person named as executor or appointed as
6 administrator with the will annexed elects to take an oath under
7 this section, the person shall take and subscribe an oath in
8 substantially the following form:

9 I do solemnly swear that the writing offered for probate is
10 the last will of _____ (insert name of testator), so far as I
11 know or believe, and that I will well and truly perform all the
12 duties of _____ (insert "executor of the will" or
13 "administrator with the will annexed," as applicable) for the
14 estate of _____ (insert name of testator).

15 (c) If the person named as executor or appointed as
16 administrator with the will annexed elects to make a declaration
17 under this section, the person shall make and sign a declaration in
18 substantially the following form:

19 My name is _____ (insert name of "executor of the will" or
20 "administrator with the will annexed" as it appears on the order
21 appointing the person as executor or administrator with the will
22 annexed), my date of birth is _____ (insert date of birth of
23 "executor of the will" or "administrator with the will annexed," as
24 applicable), and my address is _____ (insert street, city,
25 state, zip code, and country of "executor of the will" or
26 "administrator with the will annexed," as applicable). I declare
27 under penalty of perjury that the writing offered for probate is the

1 last will of _____ (insert name of testator), so far as I know or
2 believe. I also solemnly declare that I will well and truly perform
3 all the duties of _____ (insert "executor of will" or
4 "administrator with the will annexed," as applicable) for the
5 estate of _____ (insert name of testator).

6 SECTION 25. Section 305.052, Estates Code, is amended to
7 read as follows:

8 Sec. 305.052. OATH OR DECLARATION OF ADMINISTRATOR. (a)
9 Before the issuance of letters of administration, the person
10 appointed as administrator shall:

11 (1) take and subscribe an oath as prescribed by
12 Subsection (b); or

13 (2) make and sign a declaration as prescribed by
14 Subsection (c).

15 (b) If the person appointed as administrator elects to take
16 an oath under this section, the person shall take and subscribe an
17 oath in substantially the following form:

18 I do solemnly swear that _____ (insert name of
19 decedent), deceased, died _____ (insert "without leaving any
20 lawful will" or "leaving a lawful will, but the executor named in
21 the will is dead or has failed to offer the will for probate or to
22 accept and qualify as executor, within the period required," as
23 applicable), so far as I know or believe, and that I will well and
24 truly perform all the duties of administrator of the estate of
25 _____ (insert name of testator) [~~the deceased~~].

26 (c) If the person appointed as administrator elects to make
27 a declaration under this section, the person shall make and sign a

1 declaration in substantially the following form:

2 My name is _____ (insert name of administrator as it
3 appears on the order appointing the person as administrator), my
4 date of birth is _____ (insert date of birth of
5 "administrator"), and my address is _____ (insert street, city,
6 state, zip code, and country of "administrator"). I declare under
7 penalty of perjury that _____ (insert name of decedent),
8 deceased, died _____ (insert "without leaving any lawful will"
9 or "leaving a lawful will, but the executor named in the will is
10 dead or has failed to offer the will for probate or to accept and
11 qualify as executor, within the period required," as applicable),
12 so far as I know or believe. I also solemnly declare that I will well
13 and truly perform all the duties of administrator of the estate of
14 _____ (insert name of decedent).

15 SECTION 26. Section 305.053, Estates Code, is amended to
16 read as follows:

17 Sec. 305.053. OATH OR DECLARATION OF TEMPORARY
18 ADMINISTRATOR. (a) Before the issuance of temporary letters of
19 administration, the person appointed as temporary administrator
20 shall:

21 (1) take and subscribe an oath as prescribed by
22 Subsection (b); or

23 (2) make and sign a declaration as prescribed by
24 Subsection (c).

25 (b) If the person appointed as temporary administrator
26 elects to take an oath under this section, the person shall take and
27 subscribe an oath in substantially the following form:

1 I do solemnly swear that I will well and truly perform the
2 duties of temporary administrator of the estate of _____
3 (insert name of decedent), deceased, in accordance with the law,
4 and with the order of the court appointing me as temporary
5 administrator.

6 (c) If the person appointed as temporary administrator
7 elects to make a declaration under this section, the person shall
8 make and sign a declaration in substantially the following form:

9 My name is _____ (insert name of temporary administrator as
10 it appears on the order appointing the person as temporary
11 administrator), my date of birth is _____ (insert date of birth of
12 "temporary administrator"), and my address is _____ (insert
13 street, city, state, zip code, and country of "temporary
14 administrator"). I solemnly declare that I will well and truly
15 perform all the duties of temporary administrator of the estate of
16 _____ (insert name of decedent), in accordance with the law, and
17 with the order of the court appointing me as temporary
18 administrator.

19 SECTION 27. Section 305.055, Estates Code, is amended to
20 read as follows:

21 Sec. 305.055. FILING AND RECORDING OF OATH OR
22 DECLARATION. An oath or declaration shall be:

- 23 (1) filed with the clerk of the court granting the
24 letters testamentary or of administration, as applicable; and
25 (2) recorded in the judge's probate docket.

26 SECTION 28. Section 308.002(d), Estates Code, is amended to
27 read as follows:

1 (d) The notice required by this section must be sent by a
2 qualified delivery method [~~registered or certified mail, return~~
3 ~~receipt requested~~].

4 SECTION 29. Section 308.051(a), Estates Code, is amended to
5 read as follows:

6 (a) Within one month after receiving letters testamentary
7 or of administration, a personal representative of an estate shall
8 provide notice requiring each person who has a claim against the
9 estate to present the claim within the period prescribed by law by:

10 (1) having the notice published in a newspaper of
11 general circulation in the county in which the letters were issued;
12 and

13 (2) if the decedent remitted or should have remitted
14 taxes administered by the comptroller, sending the notice to the
15 comptroller by a qualified delivery method [~~certified or registered~~
16 ~~mail~~].

17 SECTION 30. Sections 308.053(c) and (d), Estates Code, are
18 amended to read as follows:

19 (c) Notice provided under this section must be:

20 (1) sent by a qualified delivery method [~~certified or~~
21 ~~registered mail, return receipt requested~~]; and

22 (2) addressed to the record holder of the claim at the
23 record holder's last known post office address.

24 (d) The following shall be filed with the clerk of the court
25 in which the letters testamentary or of administration were issued:

26 (1) a copy of each notice and of each return receipt or
27 other proof of delivery receipt; and

1 (2) the personal representative's affidavit stating:

2 (A) that the notice was sent [~~mailed~~] as required
3 by law; and

4 (B) the name of the person to whom the notice was
5 sent [~~mailed~~], if that name is not shown on the notice or receipt.

6 SECTION 31. Section 308.054(a), Estates Code, is amended to
7 read as follows:

8 (a) At any time before an estate administration is closed, a
9 personal representative may give notice by a qualified delivery
10 method [~~certified or registered mail, return receipt requested,~~] to
11 an unsecured creditor who has a claim for money against the estate.

12 SECTION 32. Section 356.105(a), Estates Code, is amended to
13 read as follows:

14 (a) A successful bid or contract for the sale of estate
15 personal property shall be reported to the court. The laws
16 regulating the approval or disapproval of a sale of real estate
17 apply to the sale, except that a conveyance is not required.

18 SECTION 33. Section 356.654(b), Estates Code, is amended to
19 read as follows:

20 (b) Before purchasing estate property as authorized by
21 Subsection (a), the personal representative shall give notice of
22 the purchase by a qualified delivery method [~~certified mail, return~~
23 ~~receipt requested~~], unless the court requires another form of
24 notice, to:

25 (1) each distributee of the estate; and

26 (2) each creditor whose claim remains unsettled after
27 being presented within six months of the date letters testamentary

1 or of administration are originally granted.

2 SECTION 34. Section 361.052(b), Estates Code, is amended to
3 read as follows:

4 (b) If a personal representative, as executor or
5 administrator, fails to timely file the affidavit or certificate
6 required by Section 308.004, the court, on the court's own motion,
7 may remove the personal representative after providing 30 days'
8 written notice to the personal representative to answer at a time
9 and place set in the notice, by a qualified delivery method
10 [~~certified mail, return receipt requested,~~] to:

- 11 (1) the representative's last known address; and
12 (2) the last known address of the representative's
13 attorney of record.

14 SECTION 35. Sections 362.005(b) and (c), Estates Code, are
15 amended to read as follows:

16 (b) Citation issued under Subsection (a) must:

17 (1) contain:

18 (A) a statement that an account for final
19 settlement has been presented;

20 (B) the time and place the court will consider
21 the account; and

22 (C) a statement requiring the person cited to
23 appear and contest the account, if the person wishes to contest the
24 account; and

25 (2) be given to each heir or distributee of the
26 decedent by a qualified delivery method [~~certified mail, return
27 receipt requested,~~] unless the court by written order directs

1 another method of service to be given.

2 (c) The personal representative shall also provide to each
3 person entitled to citation under Subsection (b) a copy of the
4 account for final settlement either by:

5 (1) a qualified delivery method [~~certified mail,~~
6 ~~return receipt requested~~]; or

7 (2) electronic delivery, including facsimile or
8 e-mail.

9 SECTION 36. Section 403.056(a), Estates Code, is amended to
10 read as follows:

11 (a) Notice to the independent executor required by Sections
12 403.052 and 403.055 must be contained in:

13 (1) a written instrument that complies with Section
14 355.004 and is sent by a qualified delivery method [~~hand-delivered~~
15 ~~with proof of receipt, or mailed by certified mail, return receipt~~
16 ~~requested with proof of receipt,~~] to the independent executor or
17 the executor's attorney;

18 (2) a pleading filed in a lawsuit with respect to the
19 claim; or

20 (3) a written instrument that complies with Section
21 355.004 or a pleading filed in the court in which the administration
22 of the estate is pending.

23 SECTION 37. Section 404.0035(a), Estates Code, is amended
24 to read as follows:

25 (a) The probate court, on the court's own motion, may remove
26 an independent executor appointed under this subtitle after
27 providing 30 days' written notice of the court's intention to the

1 independent executor, requiring answering at a time and place set
2 in the notice, by a qualified delivery method [~~certified mail,~~
3 ~~return receipt requested~~], to the independent executor's last known
4 address and to the last known address of the independent executor's
5 attorney of record, if the independent executor:

6 (1) neglects to qualify in the manner and time
7 required by law;

8 (2) fails to return, before the 91st day after the date
9 the independent executor qualifies, either an inventory of the
10 estate property and a list of claims that have come to the
11 independent executor's knowledge or an affidavit in lieu of the
12 inventory, appraisement, and list of claims, unless that deadline
13 is extended by court order; or

14 (3) fails to timely file the affidavit or certificate
15 required by Section 308.004.

16 SECTION 38. Section 452.006(a), Estates Code, is amended to
17 read as follows:

18 (a) On the date the county clerk issues letters of temporary
19 administration:

20 (1) the county clerk shall post on the courthouse door
21 a notice of the appointment to all interested persons; and

22 (2) the appointee shall notify, by a qualified
23 delivery method [~~certified mail, return receipt requested~~], the
24 decedent's known heirs of the appointment.

25 SECTION 39. Section 453.003(a), Estates Code, is amended to
26 read as follows:

27 (a) If there is no qualified executor or administrator of a

1 deceased spouse's estate, the surviving spouse, as the surviving
2 partner of the marital partnership, may:

- 3 (1) sue and be sued to recover community property;
- 4 (2) sell, mortgage, lease, and otherwise dispose of
5 community property to pay community debts, for which a portion of
6 community property is liable for payment;
- 7 (3) collect claims due to the community estate; and
- 8 (4) exercise other powers as necessary to:
 - 9 (A) preserve the community property;
 - 10 (B) discharge community obligations, for which a
11 portion of community property is liable for payment; and
 - 12 (C) wind up community affairs.

13 SECTION 40. Section 453.006, Estates Code, is amended to
14 read as follows:

15 Sec. 453.006. ACCOUNT OF [~~COMMUNITY~~] DEBTS AND DISPOSITION
16 OF COMMUNITY PROPERTY. (a) The surviving spouse shall keep a fair
17 and full account and statement of:

- 18 (1) all [~~community~~] debts and expenses paid by the
19 surviving spouse; and
- 20 (2) the disposition made of the community property.

21 (b) The surviving spouse or personal representative shall
22 keep a separate, distinct account of all [~~community~~] debts allowed
23 or paid in the administration and settlement of an estate described
24 by Section 101.052 [~~Sections 101.052(a) and (b)~~].

25 SECTION 41. Section 453.007, Estates Code, is amended to
26 read as follows:

27 Sec. 453.007. DELIVERY OF COMMUNITY ESTATE ON FINAL

1 PARTITION. On final partition of the community estate, the
2 surviving spouse shall deliver to the deceased spouse's heirs or
3 devisees their interest in the estate, and the increase in and
4 profits of the interest, after deducting from the interest:

- 5 (1) the proportion of the [~~community~~] debts chargeable
6 to the interest;
- 7 (2) unavoidable losses;
- 8 (3) necessary and reasonable expenses; and
- 9 (4) a reasonable commission for the management of the
10 interest.

11 SECTION 42. The heading to Section 453.009, Estates Code,
12 is amended to read as follows:

13 Sec. 453.009. DISTRIBUTION OF POWERS BETWEEN PERSONAL
14 REPRESENTATIVE AND SURVIVING SPOUSE DURING ADMINISTRATION.

15 SECTION 43. Section 453.009(b), Estates Code, is amended to
16 read as follows:

17 (b) During administration of a deceased spouse's estate,
18 the [~~The~~] surviving spouse, as surviving partner of the marital
19 partnership, is entitled to:

- 20 (1) retain possession and control of the community
21 property that was legally under the sole management of the
22 surviving spouse during the marriage; and
- 23 (2) exercise over that property any power this chapter
24 authorizes the surviving spouse to exercise as if there is no
25 administration pending on the deceased spouse's estate.

26 SECTION 44. Section 501.003(b), Estates Code, is amended to
27 read as follows:

1 (b) For an application described by Section 501.002(b), a
2 citation shall be issued and served by a qualified delivery method
3 [~~registered or certified mail~~] on each devisee and heir identified
4 in the application.

5 SECTION 45. Section 505.005(a), Estates Code, is amended to
6 read as follows:

7 (a) On receipt of a notice or process described by Section
8 505.004(a)(2), the secretary of state shall promptly forward the
9 notice or process by a qualified delivery method [~~registered or~~
10 ~~certified mail~~] to the officer, agent, or other person designated
11 by the foreign corporate fiduciary under Section 505.004 to receive
12 the notice or process.

13 SECTION 46. Section 505.101(a), Estates Code, is amended to
14 read as follows:

15 (a) On giving notice by a qualified delivery method
16 [~~registered or certified mail~~] to all creditors of a decedent in
17 this state who have filed a claim against the decedent's estate for
18 a debt due to the creditor, a foreign executor or administrator of a
19 person who was a nonresident at the time of death may maintain a
20 suit in this state for the recovery of debts due to the decedent.

21 SECTION 47. Section 551.005(b), Estates Code, is amended to
22 read as follows:

23 (b) The clerk of a court that orders an executor or
24 administrator to pay funds to the comptroller under Section 551.001
25 shall provide to the comptroller, by a qualified delivery method
26 [~~certified mail~~] or e-mail, a certified copy of the court order not
27 later than the fifth day after the date the order is issued.

1 SECTION 48. Sections 51.052(b), (c), (d), (e), (f), and
2 (g), 51.055(a), 51.056, 51.103(b), 56.002(b), 113.251(c), 202.051,
3 202.203, 305.001, 305.002, 305.003, 305.051, 305.052, 305.053,
4 305.055, 308.002(d), 308.051(a), 308.053(c) and (d), 308.054(a),
5 356.654(b), 361.052(b), 362.005(b) and (c), 403.056(a),
6 404.0035(a), 452.006(a), 501.003(b), 505.005(a), 505.101(a), and
7 551.005(b), Estates Code, as amended by this Act, apply only to an
8 action filed or proceeding commenced on or after the effective date
9 of this Act.

10 SECTION 49. The amendments of this Act to Sections 101.052,
11 202.005, 202.151(b) and (c), 251.053, 356.105(a), 453.003(a),
12 453.006, 453.007, and 453.009, Estates Code, are intended to
13 clarify rather than change existing law.

14 SECTION 50. Section 113.001, Estates Code, as amended by
15 this Act, applies to an account established before, on, or after the
16 effective date of this Act.

17 SECTION 51. Section 113.251(c), Estates Code, as amended by
18 this Act, applies only to multiple-party accounts created or
19 existing on or after the effective date of this Act.

20 SECTION 52. Section 202.056, Estates Code, as amended by
21 this Act, applies only to a proceeding to declare heirship
22 commenced on or after the effective date of this Act. A proceeding
23 to declare heirship commenced before that date is governed by the
24 law in effect on the date the proceeding was commenced, and the
25 former law is continued in effect for that purpose.

26 SECTION 53. Section 202.151(d), Estates Code, as added by
27 this Act, applies only to a proceeding to declare heirship

1 commenced on or after the effective date of this Act. A proceeding
2 to declare heirship commenced before that date is governed by the
3 law in effect on the date the proceeding was commenced, and the
4 former law is continued in effect for that purpose.

5 SECTION 54. Sections 258.002(d) and (e), Estates Code, as
6 added by this Act, apply only to an application for the probate of a
7 will filed on or after the effective date of this Act. An
8 application for the probate of a will filed before that date is
9 governed by the law in effect on the date the application was filed,
10 and the former law is continued in effect for that purpose.

11 SECTION 55. Section 304.003, Estates Code, as amended by
12 this Act, applies only to an application for letters testamentary
13 or for letters of administration filed on or after the effective
14 date of this Act. An application for letters testamentary or for
15 letters of administration filed before the effective date of this
16 Act is governed by the law in effect on the date the application was
17 filed, and the former law is continued in effect for that purpose.

18 SECTION 56. This Act takes effect September 1, 2023.