

1-1 By: Hughes S.B. No. 1373
 1-2 (In the Senate - Filed March 1, 2023; March 16, 2023, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 March 30, 2023, reported favorably by the following vote: Yeas 9,
 1-5 Nays 0; March 30, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17			X	
1-18	X			

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to decedents' estates and the delivery of certain notices
 1-22 or other communications in connection with those estates or
 1-23 multiple-party accounts.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Chapter 22, Estates Code, is amended by adding
 1-26 Section 22.0295 to read as follows:

1-27 Sec. 22.0295. QUALIFIED DELIVERY METHOD. "Qualified
 1-28 delivery method" means delivery by:

1-29 (1) hand delivery by courier, with courier's proof of
 1-30 delivery receipt;

1-31 (2) certified or registered mail, return receipt
 1-32 requested, with return receipt; or

1-33 (3) a private delivery service designated as a
 1-34 designated delivery service by the United States Secretary of the
 1-35 Treasury under Section 7502(f)(2), Internal Revenue Code of 1986,
 1-36 with proof of delivery receipt.

1-37 SECTION 2. The heading to Section 51.052, Estates Code, is
 1-38 amended to read as follows:

1-39 Sec. 51.052. SERVICE BY MAIL OR PRIVATE DELIVERY.

1-40 SECTION 3. Sections 51.052(b), (c), (d), (e), (f), and (g),
 1-41 Estates Code, are amended to read as follows:

1-42 (b) Except as provided by Subsection (c), the county clerk
 1-43 shall issue a citation or notice required or permitted to be served
 1-44 by a qualified delivery method [~~registered or certified mail~~] and
 1-45 shall serve the citation or notice by sending [~~mailing~~] the
 1-46 original citation or notice by a qualified delivery method
 1-47 [~~registered or certified mail~~].

1-48 (c) A personal representative shall issue a notice required
 1-49 to be given by the representative by a qualified delivery method
 1-50 [~~registered or certified mail~~] and shall serve the notice by
 1-51 sending [~~mailing~~] the original notice by a qualified delivery
 1-52 method [~~registered or certified mail~~].

1-53 (d) The county clerk or personal representative, as
 1-54 applicable, shall send [~~mail~~] a citation or notice under Subsection
 1-55 (b) or (c) with an instruction to deliver the citation or notice to
 1-56 the addressee only and with return receipt or other proof of
 1-57 delivery requested. The clerk or representative, as applicable,
 1-58 shall address the envelope containing the citation or notice to:

1-59 (1) the attorney of record in the proceeding for the
 1-60 person to be cited or notified; or

1-61 (2) the person to be cited or notified, if the citation

2-1 or notice to the attorney is returned undelivered or the person to
2-2 be cited or notified has no attorney of record in the proceeding.

2-3 (e) Service by a qualified delivery method [mail] shall be
2-4 made at least 20 days before the return day of the service,
2-5 excluding the date of service. The date of service [~~by mail~~] is the
2-6 date of mailing, the date of deposit with the private delivery
2-7 service, or the date of delivery by the courier, as applicable.

2-8 (f) A copy of a citation or notice served under Subsection
2-9 (a), (b), or (c), together with a certificate of the person serving
2-10 the citation or notice showing that the citation or notice was sent
2-11 [mailed] and the date of the mailing, date of deposit with a private
2-12 delivery service, or date of delivery by courier, as applicable,
2-13 shall be filed and recorded. A returned receipt or proof of
2-14 delivery receipt for a citation or notice served under Subsection
2-15 (b) or (c) shall be attached to the certificate.

2-16 (g) If a citation or notice served by a qualified delivery
2-17 method [mail] is returned undelivered, a new citation or notice
2-18 shall be issued. Service of the new citation or notice must be made
2-19 by posting.

2-20 SECTION 4. Section 51.055(a), Estates Code, is amended to
2-21 read as follows:

2-22 (a) If a party is represented by an attorney of record in a
2-23 probate proceeding, each citation or notice required to be served
2-24 on the party in that proceeding shall be served instead on that
2-25 attorney. A notice under this subsection may be served by delivery
2-26 to the attorney in person or by a qualified delivery method
2-27 [registered or certified mail].

2-28 SECTION 5. Section 51.056, Estates Code, is amended to read
2-29 as follows:

2-30 Sec. 51.056. SERVICE ON PERSONAL REPRESENTATIVE OR
2-31 RECEIVER. Unless this title expressly provides for another method
2-32 of service, the county clerk who issues a citation or notice
2-33 required to be served on a personal representative or receiver
2-34 shall serve the citation or notice by sending [mailing] the
2-35 original citation or notice by a qualified delivery method
2-36 [registered or certified mail] to:

- 2-37 (1) the representative's or receiver's attorney of
2-38 record; or
- 2-39 (2) the representative or receiver, if the
2-40 representative or receiver does not have an attorney of record.

2-41 SECTION 6. Section 51.103(b), Estates Code, is amended to
2-42 read as follows:

2-43 (b) Proof of service consists of:

- 2-44 (1) if the service is made by a sheriff or constable,
2-45 the return of service;
- 2-46 (2) if the service is made by a private person, the
2-47 person's affidavit;
- 2-48 (3) if the service is made by a qualified delivery
2-49 method [mail]:

2-50 (A) the certificate of the county clerk making
2-51 the service, or the affidavit of the personal representative or
2-52 other person making the service, stating that the citation or
2-53 notice was mailed, deposited with a private delivery service, or
2-54 delivered by courier, as applicable, and the date of the mailing or
2-55 deposit with the delivery service or the date of the courier
2-56 delivery, as applicable; and

2-57 (B) the return receipt or other proof of delivery
2-58 receipt attached to the certificate or affidavit, as applicable, if
2-59 the sending [mailing] was by a qualified delivery method
2-60 [registered or certified mail] and a receipt is available [has been
2-61 returned]; and

2-62 (4) if the service is made by publication:

- 2-63 (A) a statement:
 - 2-64 (i) made by the Office of Court
2-65 Administration of the Texas Judicial System or an employee of the
2-66 office;
 - 2-67 (ii) that contains or to which is attached a
2-68 copy of the published citation or notice; and
 - 2-69 (iii) that states the date of publication

3-1 on the public information Internet website maintained as required
3-2 by Section 72.034, Government Code[, ~~as added by Chapter 606 (S.B.~~
3-3 ~~891), Acts of the 86th Legislature, Regular Session, 2019]; and~~

3-4 (B) an affidavit:

3-5 (i) made by the publisher of the newspaper
3-6 in which the citation or notice was published or an employee of the
3-7 publisher;

3-8 (ii) that contains or to which is attached a
3-9 copy of the published citation or notice; and

3-10 (iii) that states the date of publication
3-11 printed on the newspaper in which the citation or notice was
3-12 published.

3-13 SECTION 7. Section 56.002(b), Estates Code, is amended to
3-14 read as follows:

3-15 (b) The resident agent shall send, by a qualified delivery
3-16 method [~~certified mail, return receipt requested~~], a copy of a
3-17 resignation statement filed under Subsection (a) to:

3-18 (1) the personal representative at the address most
3-19 recently known by the resident agent; and

3-20 (2) each party in the case or the party's attorney or
3-21 other designated representative of record.

3-22 SECTION 8. The heading to Section 101.052, Estates Code, is
3-23 amended to read as follows:

3-24 Sec. 101.052. LIABILITY OF COMMUNITY PROPERTY FOR DEBTS [~~OF~~
3-25 ~~DECEASED SPOUSE~~].

3-26 SECTION 9. Section 101.052, Estates Code, is amended by
3-27 amending Subsections (a) and (b) and adding Subsection (a-1) to
3-28 read as follows:

3-29 (a) The community property that was by law under [~~subject~~
3-30 ~~to~~] the sole management, control, and disposition of a spouse or
3-31 under the joint management, control, and disposition of the spouses
3-32 [a spouse] during marriage continues to be subject to the
3-33 liabilities of that spouse on the death of either spouse.

3-34 (a-1) The undivided one-half interest that the surviving
3-35 spouse owned in community property that was by law under the sole
3-36 management, control, and disposition of the deceased spouse during
3-37 marriage is subject to the liabilities of the surviving spouse on
3-38 the death of the deceased spouse.

3-39 (b) The undivided one-half interest that the deceased
3-40 spouse owned in [~~any other nonexempt~~] community property that was
3-41 by law under the sole management, control, and disposition of the
3-42 surviving spouse during marriage passes to the deceased spouse's
3-43 heirs or devisees charged with the liabilities of [~~debts that were~~
3-44 ~~enforceable against~~] the deceased spouse [~~before death~~].

3-45 SECTION 10. Sections 113.001(1) and (8), Estates Code, are
3-46 amended to read as follows:

3-47 (1) "Account" means a contract of deposit of funds or
3-48 securities between a depositor and a financial institution. The
3-49 term includes:

3-50 (A) an account with cash deposits, including a
3-51 checking account, savings account, certificate of deposit, and
3-52 share account;

3-53 (B) an account holding securities, including
3-54 stocks, bonds, and mutual funds; and

3-55 (C) another [~~, or other~~] similar arrangement.

3-56 (8) "Sums on deposit" means the balance payable or
3-57 transferable on a multiple-party account including cash, interest,
3-58 dividends, [~~and~~] any deposit of life insurance proceeds, and any
3-59 type of securities, including stocks, bonds, and mutual funds,
3-60 added to the account by reason of the death of a party.

3-61 SECTION 11. Section 113.251(c), Estates Code, is amended to
3-62 read as follows:

3-63 (c) Not later than the 30th day after the date a security
3-64 interest on a multiple-party account is perfected, a secured
3-65 creditor that is a financial institution with accounts insured by
3-66 the Federal Deposit Insurance Corporation shall provide written
3-67 notice of the pledge of the account to any other party to the
3-68 account who did not create the security interest. The notice must
3-69 be sent by a qualified delivery method [~~certified mail~~] to each

4-1 other party at the last address the party provided to the depository
4-2 bank.

4-3 SECTION 12. Section 202.005, Estates Code, is amended to
4-4 read as follows:

4-5 Sec. 202.005. APPLICATION FOR PROCEEDING TO DECLARE
4-6 HEIRSHIP. A person authorized by Section 202.004 to commence a
4-7 proceeding to declare heirship must file an application in a court
4-8 specified by Section 33.004 to commence the proceeding. The
4-9 application must state:

4-10 (1) the decedent's name and date and place of death;

4-11 (2) the names and physical addresses where service can
4-12 be had of the decedent's heirs, the relationship of each heir to the
4-13 decedent, whether each heir is an adult or minor, and the true
4-14 interest of the applicant and each of the heirs in the decedent's
4-15 estate or in the trust, as applicable;

4-16 (3) if the date or place of the decedent's death or the
4-17 name or physical address where service can be had of an heir is not
4-18 definitely known to the applicant, all the material facts and
4-19 circumstances with respect to which the applicant has knowledge and
4-20 information that might reasonably tend to show the date or place of
4-21 the decedent's death or the name or physical address where service
4-22 can be had of the heir;

4-23 (4) that all children born to or adopted by the
4-24 decedent have been listed;

4-25 (5) that each of the decedent's marriages has been
4-26 listed with:

4-27 (A) the date of the marriage;

4-28 (B) the name of the spouse;

4-29 (C) the date and place of termination if the
4-30 marriage was terminated; and

4-31 (D) other facts to show whether a spouse has had
4-32 an interest in the decedent's property;

4-33 (6) whether the decedent died testate and, if so, what
4-34 disposition has been made of the will;

4-35 (7) a general description of all property, as
4-36 applicable:

4-37 (A) belonging to the decedent's estate that is
4-38 subject to distribution under a judgment in the proceeding; or

4-39 (B) held in trust for the benefit of the
4-40 decedent[~~, as applicable~~]; and

4-41 (8) an explanation for the omission from the
4-42 application of any of the information required by this section.

4-43 SECTION 13. Section 202.051, Estates Code, is amended to
4-44 read as follows:

4-45 Sec. 202.051. SERVICE OF CITATION BY QUALIFIED DELIVERY
4-46 METHOD [~~MAIL~~] WHEN RECIPIENT'S NAME AND ADDRESS ARE KNOWN OR
4-47 ASCERTAINABLE. Except as provided by Section 202.054, citation in
4-48 a proceeding to declare heirship must be served by a qualified
4-49 delivery method [~~registered or certified mail~~] on:

4-50 (1) each distributee who is 12 years of age or older
4-51 and whose name and address are known or can be ascertained through
4-52 the exercise of reasonable diligence; and

4-53 (2) the parent, managing conservator, or guardian of
4-54 each distributee who is younger than 12 years of age if the name and
4-55 address of the parent, managing conservator, or guardian are known
4-56 or can be reasonably ascertained.

4-57 SECTION 14. Section 202.056, Estates Code, is amended to
4-58 read as follows:

4-59 Sec. 202.056. WAIVER OF SERVICE OF CITATION. (a) A [~~Except~~
4-60 ~~as provided by Subsection (b)(2), a~~] distributee who is 16 years of
4-61 age or older may waive citation required by this subchapter to be
4-62 served on the distributee.

4-63 (b) A parent, managing conservator, guardian, attorney ad
4-64 litem, or guardian ad litem of a [~~minor~~] distributee who is younger
4-65 than 16 years of age may [+

4-66 [~~(1) is younger than 12 years of age may~~] waive
4-67 citation required by this subchapter to be served on the
4-68 distributee[~~, and~~

4-69 [~~(2) is 12 years of age or older may not waive citation~~

5-1 ~~required by this subchapter to be served on the distributee].~~
 5-2 SECTION 15. Section 202.151, Estates Code, is amended by
 5-3 amending Subsections (b) and (c) and adding Subsection (d) to read
 5-4 as follows:

5-5 (b) Except as provided by Subsection (c), in a proceeding to
 5-6 declare heirship, testimony regarding a decedent's heirs and family
 5-7 history must be taken:

5-8 (1) from two disinterested and credible witnesses in
 5-9 open court;

5-10 (2) ~~[]~~ by deposition in accordance with Section
 5-11 51.203;

5-12 (3) by a recorded statement of facts contained in:
 5-13 (A) an affidavit or instrument that satisfies the
 5-14 requirements of Section 203.001; or

5-15 (B) a judgment of a court of record as specified
 5-16 by Section 203.001(a)(1)(B); ~~[]~~ or

5-17 (4) in accordance with the Texas Rules of Civil
 5-18 Procedure.

5-19 (c) If it is shown to the court's satisfaction in a
 5-20 proceeding to declare heirship that, after a diligent search was
 5-21 made, only one disinterested and credible witness can be found who
 5-22 can make the required proof in the proceeding, the testimony of that
 5-23 witness must be taken:

5-24 (1) in open court;

5-25 (2) ~~[]~~ by deposition in accordance with Section
 5-26 51.203;

5-27 (3) by a recorded statement of facts contained in:
 5-28 (A) an affidavit or instrument that satisfies the
 5-29 requirements of Section 203.001; or

5-30 (B) a judgment of a court of record as specified
 5-31 by Section 203.001(a)(1)(B); ~~[]~~ or

5-32 (4) in accordance with the Texas Rules of Civil
 5-33 Procedure.

5-34 (d) Notwithstanding any other law, a person interested in an
 5-35 estate solely because the person is a creditor or has a claim
 5-36 against the estate may serve as a witness under this section if the
 5-37 person is otherwise a credible witness.

5-38 SECTION 16. Section 202.203, Estates Code, is amended to
 5-39 read as follows:

5-40 Sec. 202.203. CORRECTION OF JUDGMENT AT REQUEST OF HEIR NOT
 5-41 PROPERLY SERVED. If an heir of a decedent who is the subject of a
 5-42 proceeding to declare heirship is not served with citation by a
 5-43 qualified delivery method ~~[registered or certified mail]~~ or
 5-44 personal service in the proceeding, the heir may:

5-45 (1) have the judgment in the proceeding corrected by
 5-46 bill of review:

5-47 (A) at any time, but not later than the fourth
 5-48 anniversary of the date of the judgment; or

5-49 (B) after the passage of any length of time, on
 5-50 proof of actual fraud; and

5-51 (2) recover the heir's just share of the property or
 5-52 the value of that share from:

5-53 (A) the heirs named in the judgment; and

5-54 (B) those who claim under the heirs named in the
 5-55 judgment and who are not bona fide purchasers for value.

5-56 SECTION 17. Section 251.053, Estates Code, is amended to
 5-57 read as follows:

5-58 Sec. 251.053. EXCEPTION FOR FOREIGN AND CERTAIN OTHER
 5-59 WILLS. A ~~[Section 251.051 does not apply to a]~~ written will does
 5-60 not need to meet the requirements of Section 251.051 if the will is
 5-61 executed in compliance with:

5-62 (1) the law of the state or foreign country where the
 5-63 will was executed, as that law existed at the time of the will's
 5-64 execution; or

5-65 (2) the law of the state or foreign country where the
 5-66 testator was domiciled or had a place of residence, as that law
 5-67 existed at the time of the will's execution or at the time of the
 5-68 testator's death.

5-69 SECTION 18. Section 258.002, Estates Code, is amended by

6-1 adding Subsections (d) and (e) to read as follows:

6-2 (d) An heir who is 16 years of age or older may waive
6-3 citation required by this section to be served on the heir.

6-4 (e) The parent, managing conservator, guardian, attorney ad
6-5 litem, or guardian ad litem of an heir who is younger than 16 years
6-6 of age may waive citation required by this section to be served on
6-7 the heir.

6-8 SECTION 19. Section 304.003, Estates Code, is amended to
6-9 read as follows:

6-10 Sec. 304.003. PERSONS DISQUALIFIED TO SERVE AS EXECUTOR OR
6-11 ADMINISTRATOR. A person is not qualified to serve as an executor
6-12 or administrator if the person is:

6-13 (1) incapacitated;
6-14 (2) a felon convicted under the laws of the United
6-15 States or of any state of the United States unless: [7]

6-16 (A) in accordance with law, the person has been
6-17 pardoned or has had the person's civil rights restored; or

6-18 (B) all of the distributees of the decedent agree
6-19 on and collectively designate the person to serve as executor or
6-20 administrator of the decedent's estate and acknowledge the
6-21 conviction in:

6-22 (i) an application for probate of the
6-23 decedent's will;

6-24 (ii) an application for letters
6-25 testamentary or of administration of the decedent's estate; or

6-26 (iii) one or more separate documents
6-27 consenting to an application;

6-28 (3) a nonresident of this state who:

6-29 (A) is a natural person or corporation; and

6-30 (B) has not:

6-31 (i) appointed a resident agent to accept
6-32 service of process in all actions or proceedings with respect to the
6-33 estate; or

6-34 (ii) had that appointment filed with the
6-35 court;

6-36 (4) a corporation not authorized to act as a fiduciary
6-37 in this state; or

6-38 (5) a person whom the court finds unsuitable.

6-39 SECTION 20. Section 305.001, Estates Code, is amended to
6-40 read as follows:

6-41 Sec. 305.001. DEFINITIONS. In this chapter:

6-42 (1) "Bond" means a bond required by this chapter to be
6-43 given by a person appointed to serve as a personal representative.

6-44 (2) "Declaration" means a written declaration that may
6-45 be made and signed by a person appointed to serve as a personal
6-46 representative.

6-47 (3) "Oath" means an oath that may [~~required by this~~
6-48 ~~chapter to~~] be taken by a person appointed to serve as a personal
6-49 representative.

6-50 SECTION 21. Section 305.002, Estates Code, is amended to
6-51 read as follows:

6-52 Sec. 305.002. MANNER OF QUALIFICATION OF PERSONAL
6-53 REPRESENTATIVE. (a) A personal representative, other than an
6-54 executor described by Subsection (b), is considered to have
6-55 qualified when the representative has:

6-56 (1) taken and filed the oath prescribed by Subchapter
6-57 B or made, signed, and filed the declaration prescribed by
6-58 Subchapter B;

6-59 (2) filed the required bond with the clerk; and

6-60 (3) obtained the judge's approval of the bond.

6-61 (b) An executor who is not required to give a bond is
6-62 considered to have qualified when the executor has taken and filed
6-63 the oath prescribed by Subchapter B or made, signed, and filed the
6-64 declaration prescribed by Subchapter B.

6-65 SECTION 22. Section 305.003, Estates Code, is amended to
6-66 read as follows:

6-67 Sec. 305.003. PERIOD FOR TAKING OATH OR MAKING AND SIGNING
6-68 DECLARATION. An oath may be taken and subscribed or a declaration
6-69 may be made and signed at any time before:

7-1 (1) the 21st day after the date of the order granting
7-2 letters testamentary or of administration, as applicable; or

7-3 (2) the letters testamentary or of administration, as
7-4 applicable, are revoked for a failure to qualify within the period
7-5 allowed.

7-6 SECTION 23. The heading to Subchapter B, Chapter 305,
7-7 Estates Code, is amended to read as follows:

7-8 SUBCHAPTER B. OATHS OR DECLARATIONS

7-9 SECTION 24. Section 305.051, Estates Code, is amended to
7-10 read as follows:

7-11 Sec. 305.051. OATH OR DECLARATION OF EXECUTOR OR
7-12 ADMINISTRATOR WITH WILL ANNEXED. (a) Before the issuance of
7-13 letters testamentary or letters of administration with the will
7-14 annexed, the person named as executor or appointed as administrator
7-15 with the will annexed shall:

7-16 (1) take and subscribe an oath as prescribed by
7-17 Subsection (b); or

7-18 (2) make and sign a declaration as prescribed by
7-19 Subsection (c).

7-20 (b) If the person named as executor or appointed as
7-21 administrator with the will annexed elects to take an oath under
7-22 this section, the person shall take and subscribe an oath in
7-23 substantially the following form:

7-24 I do solemnly swear that the writing offered for probate is
7-25 the last will of _____ (insert name of testator), so far as I
7-26 know or believe, and that I will well and truly perform all the
7-27 duties of _____ (insert "executor of the will" or
7-28 "administrator with the will annexed," as applicable) for the
7-29 estate of _____ (insert name of testator).

7-30 (c) If the person named as executor or appointed as
7-31 administrator with the will annexed elects to make a declaration
7-32 under this section, the person shall make and sign a declaration in
7-33 substantially the following form:

7-34 My name is _____ (insert name of "executor of the will" or
7-35 "administrator with the will annexed" as it appears on the order
7-36 appointing the person as executor or administrator with the will
7-37 annexed), my date of birth is _____ (insert date of birth of
7-38 "executor of the will" or "administrator with the will annexed," as
7-39 applicable), and my address is _____ (insert street, city,
7-40 state, zip code, and country of "executor of the will" or
7-41 "administrator with the will annexed," as applicable). I declare
7-42 under penalty of perjury that the writing offered for probate is the
7-43 last will of _____ (insert name of testator), so far as I know or
7-44 believe. I also solemnly declare that I will well and truly perform
7-45 all the duties of _____ (insert "executor of will" or
7-46 "administrator with the will annexed," as applicable) for the
7-47 estate of _____ (insert name of testator).

7-48 SECTION 25. Section 305.052, Estates Code, is amended to
7-49 read as follows:

7-50 Sec. 305.052. OATH OR DECLARATION OF ADMINISTRATOR. (a)
7-51 Before the issuance of letters of administration, the person
7-52 appointed as administrator shall:

7-53 (1) take and subscribe an oath as prescribed by
7-54 Subsection (b); or

7-55 (2) make and sign a declaration as prescribed by
7-56 Subsection (c).

7-57 (b) If the person appointed as administrator elects to take
7-58 an oath under this section, the person shall take and subscribe an
7-59 oath in substantially the following form:

7-60 I do solemnly swear that _____ (insert name of
7-61 decedent), deceased, died _____ (insert "without leaving any
7-62 lawful will" or "leaving a lawful will, but the executor named in
7-63 the will is dead or has failed to offer the will for probate or to
7-64 accept and qualify as executor, within the period required," as
7-65 applicable), so far as I know or believe, and that I will well and
7-66 truly perform all the duties of administrator of the estate of
7-67 _____ (insert name of testator) [~~the deceased~~].

7-68 (c) If the person appointed as administrator elects to make
7-69 a declaration under this section, the person shall make and sign a

8-1 declaration in substantially the following form:

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

8-15 SECTION 26. Section 305.053, Estates Code, is amended to
 8-16 read as follows:

8-17 Sec. 305.053. OATH OR DECLARATION OF TEMPORARY
 8-18 ADMINISTRATOR. (a) Before the issuance of temporary letters of
 8-19 administration, the person appointed as temporary administrator
 8-20 shall:

8-21 (1) take and subscribe an oath as prescribed by
 8-22 Subsection (b); or

8-23 (2) make and sign a declaration as prescribed by
 8-24 Subsection (c).

8-25 (b) If the person appointed as temporary administrator
 8-26 elects to take an oath under this section, the person shall take and
 8-27 subscribe an oath in substantially the following form:

8-28 I do solemnly swear that I will well and truly perform the
 8-29 duties of temporary administrator of the estate of _____
 8-30 (insert name of decedent), deceased, in accordance with the law,
 8-31 and with the order of the court appointing me as temporary
 8-32 administrator.

8-33 (c) If the person appointed as temporary administrator
 8-34 elects to make a declaration under this section, the person shall
 8-35 make and sign a declaration in substantially the following form:

8-36 My name is _____ (insert name of temporary administrator as
 8-37 it appears on the order appointing the person as temporary
 8-38 administrator), my date of birth is _____ (insert date of birth of
 8-39 "temporary administrator"), and my address is _____ (insert
 8-40 street, city, state, zip code, and country of "temporary
 8-41 administrator"). I solemnly declare that I will well and truly
 8-42 perform all the duties of temporary administrator of the estate of
 8-43 _____ (insert name of decedent), in accordance with the law, and
 8-44 with the order of the court appointing me as temporary
 8-45 administrator.

8-46 SECTION 27. Section 305.055, Estates Code, is amended to
 8-47 read as follows:

8-48 Sec. 305.055. FILING AND RECORDING OF OATH OR
 8-49 DECLARATION. An oath or declaration shall be:

8-50 (1) filed with the clerk of the court granting the
 8-51 letters testamentary or of administration, as applicable; and

8-52 (2) recorded in the judge's probate docket.

8-53 SECTION 28. Section 308.002(d), Estates Code, is amended to
 8-54 read as follows:

8-55 (d) The notice required by this section must be sent by a
 8-56 qualified delivery method [~~registered or certified mail, return~~
 8-57 ~~receipt requested~~].

8-58 SECTION 29. Section 308.051(a), Estates Code, is amended to
 8-59 read as follows:

8-60 (a) Within one month after receiving letters testamentary
 8-61 or of administration, a personal representative of an estate shall
 8-62 provide notice requiring each person who has a claim against the
 8-63 estate to present the claim within the period prescribed by law by:

8-64 (1) having the notice published in a newspaper of
 8-65 general circulation in the county in which the letters were issued;
 8-66 and

8-67 (2) if the decedent remitted or should have remitted
 8-68 taxes administered by the comptroller, sending the notice to the
 8-69 comptroller by a qualified delivery method [~~certified or registered~~

9-1 ~~mail~~].

9-2 SECTION 30. Sections 308.053(c) and (d), Estates Code, are
9-3 amended to read as follows:

9-4 (c) Notice provided under this section must be:

9-5 (1) sent by a qualified delivery method [~~certified or~~
9-6 ~~registered mail, return receipt requested~~]; and

9-7 (2) addressed to the record holder of the claim at the
9-8 record holder's last known post office address.

9-9 (d) The following shall be filed with the clerk of the court
9-10 in which the letters testamentary or of administration were issued:

9-11 (1) a copy of each notice and of each return receipt or
9-12 other proof of delivery receipt; and

9-13 (2) the personal representative's affidavit stating:

9-14 (A) that the notice was sent [~~mailed~~] as required
9-15 by law; and

9-16 (B) the name of the person to whom the notice was
9-17 sent [~~mailed~~], if that name is not shown on the notice or receipt.

9-18 SECTION 31. Section 308.054(a), Estates Code, is amended to
9-19 read as follows:

9-20 (a) At any time before an estate administration is closed, a
9-21 personal representative may give notice by a qualified delivery
9-22 method [~~certified or registered mail, return receipt requested,~~] to
9-23 an unsecured creditor who has a claim for money against the estate.

9-24 SECTION 32. Section 356.105(a), Estates Code, is amended to
9-25 read as follows:

9-26 (a) A successful bid or contract for the sale of estate
9-27 personal property shall be reported to the court. The laws
9-28 regulating the approval or disapproval of a sale of real estate
9-29 apply to the sale, except that a conveyance is not required.

9-30 SECTION 33. Section 356.654(b), Estates Code, is amended to
9-31 read as follows:

9-32 (b) Before purchasing estate property as authorized by
9-33 Subsection (a), the personal representative shall give notice of
9-34 the purchase by a qualified delivery method [~~certified mail, return~~
9-35 ~~receipt requested~~], unless the court requires another form of
9-36 notice, to:

9-37 (1) each distributee of the estate; and

9-38 (2) each creditor whose claim remains unsettled after
9-39 being presented within six months of the date letters testamentary
9-40 or of administration are originally granted.

9-41 SECTION 34. Section 361.052(b), Estates Code, is amended to
9-42 read as follows:

9-43 (b) If a personal representative, as executor or
9-44 administrator, fails to timely file the affidavit or certificate
9-45 required by Section 308.004, the court, on the court's own motion,
9-46 may remove the personal representative after providing 30 days'
9-47 written notice to the personal representative to answer at a time
9-48 and place set in the notice, by a qualified delivery method
9-49 [~~certified mail, return receipt requested,~~] to:

9-50 (1) the representative's last known address; and

9-51 (2) the last known address of the representative's
9-52 attorney of record.

9-53 SECTION 35. Sections 362.005(b) and (c), Estates Code, are
9-54 amended to read as follows:

9-55 (b) Citation issued under Subsection (a) must:

9-56 (1) contain:

9-57 (A) a statement that an account for final
9-58 settlement has been presented;

9-59 (B) the time and place the court will consider
9-60 the account; and

9-61 (C) a statement requiring the person cited to
9-62 appear and contest the account, if the person wishes to contest the
9-63 account; and

9-64 (2) be given to each heir or distributee of the
9-65 decedent by a qualified delivery method [~~certified mail, return~~
9-66 ~~receipt requested,~~] unless the court by written order directs
9-67 another method of service to be given.

9-68 (c) The personal representative shall also provide to each
9-69 person entitled to citation under Subsection (b) a copy of the

10-1 account for final settlement either by:
 10-2 (1) a qualified delivery method [~~certified mail,~~
 10-3 ~~return receipt requested~~]; or
 10-4 (2) electronic delivery, including facsimile or
 10-5 e-mail.

10-6 SECTION 36. Section 403.056(a), Estates Code, is amended to
 10-7 read as follows:

10-8 (a) Notice to the independent executor required by Sections
 10-9 403.052 and 403.055 must be contained in:

10-10 (1) a written instrument that complies with Section
 10-11 355.004 and is sent by a qualified delivery method [~~hand-delivered~~
 10-12 ~~with proof of receipt, or mailed by certified mail, return receipt~~
 10-13 ~~requested with proof of receipt,~~] to the independent executor or
 10-14 the executor's attorney;

10-15 (2) a pleading filed in a lawsuit with respect to the
 10-16 claim; or

10-17 (3) a written instrument that complies with Section
 10-18 355.004 or a pleading filed in the court in which the administration
 10-19 of the estate is pending.

10-20 SECTION 37. Section 404.0035(a), Estates Code, is amended
 10-21 to read as follows:

10-22 (a) The probate court, on the court's own motion, may remove
 10-23 an independent executor appointed under this subtitle after
 10-24 providing 30 days' written notice of the court's intention to the
 10-25 independent executor, requiring answering at a time and place set
 10-26 in the notice, by a qualified delivery method [~~certified mail,~~
 10-27 ~~return receipt requested~~], to the independent executor's last known
 10-28 address and to the last known address of the independent executor's
 10-29 attorney of record, if the independent executor:

10-30 (1) neglects to qualify in the manner and time
 10-31 required by law;

10-32 (2) fails to return, before the 91st day after the date
 10-33 the independent executor qualifies, either an inventory of the
 10-34 estate property and a list of claims that have come to the
 10-35 independent executor's knowledge or an affidavit in lieu of the
 10-36 inventory, appraisal, and list of claims, unless that deadline
 10-37 is extended by court order; or

10-38 (3) fails to timely file the affidavit or certificate
 10-39 required by Section 308.004.

10-40 SECTION 38. Section 452.006(a), Estates Code, is amended to
 10-41 read as follows:

10-42 (a) On the date the county clerk issues letters of temporary
 10-43 administration:

10-44 (1) the county clerk shall post on the courthouse door
 10-45 a notice of the appointment to all interested persons; and

10-46 (2) the appointee shall notify, by a qualified
 10-47 delivery method [~~certified mail, return receipt requested~~], the
 10-48 decedent's known heirs of the appointment.

10-49 SECTION 39. Section 453.003(a), Estates Code, is amended to
 10-50 read as follows:

10-51 (a) If there is no qualified executor or administrator of a
 10-52 deceased spouse's estate, the surviving spouse, as the surviving
 10-53 partner of the marital partnership, may:

10-54 (1) sue and be sued to recover community property;

10-55 (2) sell, mortgage, lease, and otherwise dispose of
 10-56 community property to pay community debts, for which a portion of
 10-57 community property is liable for payment;

10-58 (3) collect claims due to the community estate; and

10-59 (4) exercise other powers as necessary to:

10-60 (A) preserve the community property;

10-61 (B) discharge community obligations, for which a
 10-62 portion of community property is liable for payment; and

10-63 (C) wind up community affairs.

10-64 SECTION 40. Section 453.006, Estates Code, is amended to
 10-65 read as follows:

10-66 Sec. 453.006. ACCOUNT OF [COMMUNITY] DEBTS AND DISPOSITION
 10-67 OF COMMUNITY PROPERTY. (a) The surviving spouse shall keep a fair
 10-68 and full account and statement of:

10-69 (1) all [community] debts and expenses paid by the

11-1 surviving spouse; and

11-2 (2) the disposition made of the community property.

11-3 (b) The surviving spouse or personal representative shall
11-4 keep a separate, distinct account of all [~~community~~] debts allowed
11-5 or paid in the administration and settlement of an estate described
11-6 by Section 101.052 [~~Sections 101.052(a) and (b)~~].

11-7 SECTION 41. Section 453.007, Estates Code, is amended to
11-8 read as follows:

11-9 Sec. 453.007. DELIVERY OF COMMUNITY ESTATE ON FINAL
11-10 PARTITION. On final partition of the community estate, the
11-11 surviving spouse shall deliver to the deceased spouse's heirs or
11-12 devisees their interest in the estate, and the increase in and
11-13 profits of the interest, after deducting from the interest:

11-14 (1) the proportion of the [~~community~~] debts chargeable
11-15 to the interest;

11-16 (2) unavoidable losses;

11-17 (3) necessary and reasonable expenses; and

11-18 (4) a reasonable commission for the management of the
11-19 interest.

11-20 SECTION 42. The heading to Section 453.009, Estates Code,
11-21 is amended to read as follows:

11-22 Sec. 453.009. DISTRIBUTION OF POWERS BETWEEN PERSONAL
11-23 REPRESENTATIVE AND SURVIVING SPOUSE DURING ADMINISTRATION.

11-24 SECTION 43. Section 453.009(b), Estates Code, is amended to
11-25 read as follows:

11-26 (b) During administration of a deceased spouse's estate,
11-27 the [~~The~~] surviving spouse, as surviving partner of the marital
11-28 partnership, is entitled to:

11-29 (1) retain possession and control of the community
11-30 property that was legally under the sole management of the
11-31 surviving spouse during the marriage; and

11-32 (2) exercise over that property any power this chapter
11-33 authorizes the surviving spouse to exercise if there is no
11-34 administration pending on the deceased spouse's estate.

11-35 SECTION 44. Section 501.003(b), Estates Code, is amended to
11-36 read as follows:

11-37 (b) For an application described by Section 501.002(b), a
11-38 citation shall be issued and served by a qualified delivery method
11-39 [~~registered or certified mail~~] on each devisee and heir identified
11-40 in the application.

11-41 SECTION 45. Section 505.005(a), Estates Code, is amended to
11-42 read as follows:

11-43 (a) On receipt of a notice or process described by Section
11-44 505.004(a)(2), the secretary of state shall promptly forward the
11-45 notice or process by a qualified delivery method [~~registered or~~
11-46 ~~certified mail~~] to the officer, agent, or other person designated
11-47 by the foreign corporate fiduciary under Section 505.004 to receive
11-48 the notice or process.

11-49 SECTION 46. Section 505.101(a), Estates Code, is amended to
11-50 read as follows:

11-51 (a) On giving notice by a qualified delivery method
11-52 [~~registered or certified mail~~] to all creditors of a decedent in
11-53 this state who have filed a claim against the decedent's estate for
11-54 a debt due to the creditor, a foreign executor or administrator of a
11-55 person who was a nonresident at the time of death may maintain a
11-56 suit in this state for the recovery of debts due to the decedent.

11-57 SECTION 47. Section 551.005(b), Estates Code, is amended to
11-58 read as follows:

11-59 (b) The clerk of a court that orders an executor or
11-60 administrator to pay funds to the comptroller under Section 551.001
11-61 shall provide to the comptroller, by a qualified delivery method
11-62 [~~certified mail~~] or e-mail, a certified copy of the court order not
11-63 later than the fifth day after the date the order is issued.

11-64 SECTION 48. Sections 51.052(b), (c), (d), (e), (f), and
11-65 (g), 51.055(a), 51.056, 51.103(b), 56.002(b), 113.251(c), 202.051,
11-66 202.203, 305.001, 305.002, 305.003, 305.051, 305.052, 305.053,
11-67 305.055, 308.002(d), 308.051(a), 308.053(c) and (d), 308.054(a),
11-68 356.654(b), 361.052(b), 362.005(b) and (c), 403.056(a),
11-69 404.0035(a), 452.006(a), 501.003(b), 505.005(a), 505.101(a), and

12-1 551.005(b), Estates Code, as amended by this Act, apply only to an
12-2 action filed or proceeding commenced on or after the effective date
12-3 of this Act.

12-4 SECTION 49. The amendments of this Act to Sections 101.052,
12-5 202.005, 202.151(b) and (c), 251.053, 356.105(a), 453.003(a),
12-6 453.006, 453.007, and 453.009, Estates Code, are intended to
12-7 clarify rather than change existing law.

12-8 SECTION 50. Section 113.001, Estates Code, as amended by
12-9 this Act, applies to an account established before, on, or after the
12-10 effective date of this Act.

12-11 SECTION 51. Section 113.251(c), Estates Code, as amended by
12-12 this Act, applies only to multiple-party accounts created or
12-13 existing on or after the effective date of this Act.

12-14 SECTION 52. Section 202.056, Estates Code, as amended by
12-15 this Act, applies only to a proceeding to declare heirship
12-16 commenced on or after the effective date of this Act. A proceeding
12-17 to declare heirship commenced before that date is governed by the
12-18 law in effect on the date the proceeding was commenced, and the
12-19 former law is continued in effect for that purpose.

12-20 SECTION 53. Section 202.151(d), Estates Code, as added by
12-21 this Act, applies only to a proceeding to declare heirship
12-22 commenced on or after the effective date of this Act. A proceeding
12-23 to declare heirship commenced before that date is governed by the
12-24 law in effect on the date the proceeding was commenced, and the
12-25 former law is continued in effect for that purpose.

12-26 SECTION 54. Sections 258.002(d) and (e), Estates Code, as
12-27 added by this Act, apply only to an application for the probate of a
12-28 will filed on or after the effective date of this Act. An
12-29 application for the probate of a will filed before that date is
12-30 governed by the law in effect on the date the application was filed,
12-31 and the former law is continued in effect for that purpose.

12-32 SECTION 55. Section 304.003, Estates Code, as amended by
12-33 this Act, applies only to an application for letters testamentary
12-34 or for letters of administration filed on or after the effective
12-35 date of this Act. An application for letters testamentary or for
12-36 letters of administration filed before the effective date of this
12-37 Act is governed by the law in effect on the date the application was
12-38 filed, and the former law is continued in effect for that purpose.

12-39 SECTION 56. This Act takes effect September 1, 2023.

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