

By: Hartnett

H.B. No. 2750

A BILL TO BE ENTITLED

AN ACT

relating to certain identifying information provided in connection with a decedent's estate or guardianship.

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

SECTION 1. Section 3, Texas Probate Code, is amended by adding Subsection (nn) to read as follows:

(nn) "Identifying financial information" means a tax identification number or information, other than an individual's name, address, or driver's license number, that can be used to access an account at a bank, brokerage firm, or other financial institution, including an account number or a verification of that account number.

SECTION 2. Chapter I, Texas Probate Code, is amended by adding Section 36A to read as follows:

Sec. 36A. ACCESS TO CERTAIN IDENTIFYING INFORMATION MAINTAINED IN JUDICIAL RECORDS. (a) Notwithstanding Rule 12, Texas Rules of Judicial Administration, identifying information maintained under Section 36(b) of this code and identifying financial information ordered to be maintained in the judicial records under Section 250A, 399, or 405 of this code are confidential and may be used, inspected, or copied only by:

(1) the personal representative of the decedent;

(2) the person to whom the information pertains; or

(3) a person authorized to use, inspect, or copy the

1 information by a court order issued under this section.

2 (b) On written application, the court, with or without a
3 hearing, may enter an order that authorizes the following persons
4 to use, inspect, or copy another person's identifying financial
5 information or other identifying information maintained in the
6 judicial records of the court under Section 36(b), 250A, 399, or 405
7 of this code:

8 (1) an attorney or attorney ad litem;

9 (2) a party to a proceeding involving the decedent or
10 the decedent's estate;

11 (3) an heir or devisee of the decedent;

12 (4) law enforcement personnel; or

13 (5) any other person requesting access to the
14 information.

15 (c) A judge may not issue an order authorizing a person
16 described by Subsection (b)(5) of this section to have access to
17 another person's identifying financial information or other kind of
18 identifying information unless the judge finds that the person has
19 shown good cause for the use, inspection, or copying of the
20 information.

21 (d) The court may charge the applicant a reasonable fee not
22 to exceed actual costs for any copies provided under this section.

23 (e) To the extent that this section conflicts with the Texas
24 Rules of Judicial Administration or other rules, this section
25 controls. Notwithstanding Section 22.003, Government Code, the
26 supreme court may not amend or adopt rules in conflict with this
27 section.

1 SECTION 3. Part 1, Chapter VIII, Texas Probate Code, is
2 amended by adding Section 250A to read as follows:

3 Sec. 250A. LIMITED ACCESS TO IDENTIFYING FINANCIAL
4 INFORMATION. (a) On written application by the personal
5 representative of or a person interested in the estate, the court
6 may order and direct that identifying financial information of a
7 decedent or a decedent's estate that is required to be furnished for
8 purposes of the inventory under this part must be maintained in the
9 judicial files of the court. Identifying financial information
10 that is the subject of an order entered under this subsection may
11 not be filed with the clerk.

12 (b) An order issued under Subsection (a) of this section
13 must be accompanied by an information sheet containing the
14 identifying financial information referred to in the order and the
15 corresponding account information. As soon as practicable after
16 the date the judge issues the order, the personal representative
17 shall attach to the inventory and appraisement a statement
18 specifying that identifying financial information relevant to
19 information contained in the inventory and appraisement is being
20 held in the judicial records of the court.

21 (c) Except as otherwise provided by the court, an order
22 issued under Subsection (a) of this section is a standing order
23 applicable to any supplemental inventory and appraisement filed
24 under this part.

25 SECTION 4. Section 399, Texas Probate Code, is amended by
26 adding Subsection (e) to read as follows:

27 (e) Identifying Financial Information. (1) On written

1 application by the personal representative of or a person
2 interested in the estate, the court may order and direct that
3 identifying financial information of a decedent or a decedent's
4 estate that is required to be furnished for purposes of an annual
5 account required under this section must be maintained in the
6 judicial files of the court. Identifying financial information
7 that is the subject of an order entered under this subsection may
8 not be filed with the clerk.

9 (2) An order issued under Subdivision (1) of this
10 subsection must be accompanied by an information sheet containing
11 the identifying financial information referred to in the order and
12 the corresponding account information. As soon as practicable
13 after the date the court issues the order, the personal
14 representative shall attach to the account a statement specifying
15 that identifying financial information relevant to information
16 contained in the account is being held in the judicial records of
17 the court.

18 (3) Except as otherwise provided by the court, an
19 order issued under Subdivision (1) of this subsection is a standing
20 order that applies to all subsequent accounts filed by
21 representatives of estates under this section. The personal
22 representative must attach the statement described by Subdivision
23 (2) of this subsection to each subsequent account.

24 SECTION 5. Section 405, Texas Probate Code, is amended to
25 read as follows:

26 Sec. 405. ACCOUNT FOR FINAL SETTLEMENT OF ESTATES OF
27 DECEDENTS. (a) When administration of the estate of a decedent is

1 to be settled and closed, the personal representative of such
2 estate shall present to the court his verified account for final
3 settlement. In such account it shall be sufficient to refer to the
4 inventory without describing each item of property in detail, and
5 to refer to and adopt any and all proceedings had in the
6 administration concerning sales, renting or hiring, leasing for
7 mineral development, or any other transactions on behalf of the
8 estate including exhibits, accounts, and vouchers previously filed
9 and approved, without restating the particular items thereof. Each
10 final account, however, shall be accompanied by proper vouchers in
11 support of each item thereof not already accounted for and shall
12 show, either by reference to any proceedings authorized above or by
13 statement of the facts:

14 1. The property belonging to the estate which has come
15 into the hands of the executor or administrator.

16 2. The disposition that has been made of such
17 property.

18 3. The debts that have been paid.

19 4. The debts and expenses, if any, still owing by the
20 estate.

21 5. The property of the estate, if any, still remaining
22 on hand.

23 6. The persons entitled to receive such estate, their
24 relationship to the decedent, and their residence, if known, and
25 whether adults or minors, and, if minors, the names of their
26 guardians, if any.

27 7. All advancements or payments that have been made,

1 if any, by the executor or administrator from such estate to any
2 such person.

3 8. The tax returns due that have been filed and the
4 taxes due and owing that have been paid and a complete account of
5 the amount of taxes, the date the taxes were paid, and the
6 governmental entity to which the taxes were paid.

7 9. If any tax return due to be filed or any taxes due to
8 be paid are delinquent on the filing of the account, a description
9 of the delinquency and the reasons for the delinquency.

10 10. The personal representative has paid all required
11 bond premiums.

12 (b) On written application by the personal representative
13 of or any person interested in the estate, the court may order and
14 direct that identifying financial information of a decedent or a
15 decedent's estate that is required to be furnished for purposes of
16 the final account required under this section must be maintained in
17 the judicial files of the court. Identifying financial information
18 that is the subject of an order entered under this subsection may
19 not be filed with the clerk.

20 (c) An order issued under Subsection (b) of this section
21 must be accompanied by an information sheet containing the
22 identifying financial information referred to in the order and the
23 corresponding account information. As soon as practicable after
24 the date the court issues the order, the personal representative
25 shall attach to the final account a statement specifying that
26 identifying financial information relevant to information
27 contained in the final account is being held in the judicial records

1 of the court.

2 SECTION 6. Section 601, Texas Probate Code, is amended by
3 adding Subdivision (13-a) to read as follows:

4 (13-a) "Identifying financial information" means a
5 tax identification number or information, other than an
6 individual's name, address, or driver's license number, that can be
7 used to access an account at a bank, brokerage firm, or other
8 financial institution, including an account number or a
9 verification of that account number.

10 SECTION 7. Subpart I, Part 2, Chapter XIII, Texas Probate
11 Code, is amended by adding Section 671A to read as follows:

12 Sec. 671A. ACCESS TO CERTAIN IDENTIFYING INFORMATION
13 MAINTAINED IN JUDICIAL RECORDS. (a) Notwithstanding Rule 12,
14 Texas Rules of Judicial Administration, identifying information
15 maintained under Section 671(e) of this code and identifying
16 financial information ordered to be maintained in the judicial
17 records under Section 729A, 741, 749, or 871 of this code are
18 confidential and may be used, inspected, or copied only by:

19 (1) the guardian of the ward, if the information is
20 identifying information of the ward;

21 (2) the ward or other person to whom the information
22 pertains; or

23 (3) a person authorized to use, inspect, or copy the
24 information by a court order issued under this section.

25 (b) On written application, the court, with or without a
26 hearing, may enter an order that authorizes the following persons
27 to use, inspect, or copy another person's identifying financial

1 information or other identifying information maintained in the
2 judicial records of the court under Section 671(e), 729A, 741, 729,
3 or 871 of this code:

4 (1) an attorney, attorney ad litem, guardian, or
5 guardian ad litem;

6 (2) a party to a proceeding involving the ward or the
7 ward's estate;

8 (3) law enforcement personnel; or

9 (4) any other person requesting access to the
10 information.

11 (c) A judge may not issue an order authorizing a person
12 described by Subsection (b)(4) of this section to have access to
13 another person's identifying financial information or other kind of
14 identifying information unless the judge finds that the person has
15 shown good cause for the use, inspection, or copying of the
16 information.

17 (d) The court may charge the applicant a reasonable fee not
18 to exceed actual costs for any copies provided under this section.

19 (e) To the extent that this section conflicts with the Texas
20 Rules of Judicial Administration or other rules, this section
21 controls. Notwithstanding Section 22.003, Government Code, the
22 supreme court may not amend or adopt rules in conflict with this
23 section.

24 SECTION 8. Subpart A, Part 4, Chapter XIII, Texas Probate
25 Code, is amended by adding Section 729A to read as follows:

26 Sec. 729A. LIMITED ACCESS TO IDENTIFYING FINANCIAL
27 INFORMATION. (a) On written application by the ward's guardian or

1 a person interested in the welfare of the ward, the court may order
2 and direct that identifying financial information of a ward or the
3 ward's estate that is required to be furnished for purposes of the
4 inventory under this part must be maintained in the judicial files
5 of the court. Identifying financial information that is the
6 subject of an order entered under this subsection may not be filed
7 with the clerk.

8 (b) An order issued under Subsection (a) of this section
9 must be accompanied by an information sheet containing the
10 identifying financial information referred to in the order and the
11 corresponding account information. As soon as practicable after
12 the date the judge issues the order, the guardian of the estate
13 shall attach to the inventory and appraisal a statement
14 specifying that identifying financial information relevant to
15 information contained in the inventory and appraisal is being
16 held in the judicial records of the court.

17 (c) Except as otherwise provided by the court, an order
18 issued under Subsection (a) of this section is a standing order
19 applicable to any supplemental inventory and appraisal filed
20 under this part.

21 SECTION 9. Section 741, Texas Probate Code, is amended by
22 adding Subsections (h), (i), and (j) to read as follows:

23 (h) On written application by the ward's guardian or a
24 person interested in the welfare of the ward, the court may order
25 and direct that identifying financial information of a ward or the
26 ward's estate that is required to be furnished for purposes of an
27 annual account required under this section must be maintained in

1 the judicial files of the court. Identifying financial information
2 that is the subject of an order entered under this subsection may
3 not be filed with the clerk.

4 (i) An order issued under Subsection (h) of this section
5 must be accompanied by an information sheet containing the
6 identifying financial information referred to in the order and the
7 corresponding account information. As soon as practicable after
8 the date the court issues the order, the guardian of the estate
9 shall attach to the account a statement specifying that identifying
10 financial information relevant to information contained in the
11 account is being held in the judicial records of the court.

12 (j) Except as otherwise provided by the court, an order
13 issued under Subsection (h) of this section is a standing order that
14 applies to all subsequent accounts filed under this section. The
15 guardian must attach the statement described by Subsection (i) of
16 this section to each subsequent account.

17 SECTION 10. Section 749, Texas Probate Code, is amended to
18 read as follows:

19 Sec. 749. ACCOUNT FOR FINAL SETTLEMENT OF ESTATES OF WARDS.

20 (a) When a guardianship of the estate is required to be settled,
21 the guardian shall present to the court the guardian's verified
22 account for final settlement. In the account it shall be sufficient
23 to refer to the inventory without describing each item of property
24 in detail and to refer to and adopt any and all guardianship
25 proceedings that concern sales, renting or hiring, leasing for
26 mineral development, or any other transaction on behalf of the
27 guardianship estate, including an exhibit, account, or voucher

1 previously filed and approved, without restating the particular
2 items. Each final account shall be accompanied by proper vouchers
3 in support of each item not already accounted for and shall show,
4 either by reference to any proceedings authorized above or by
5 statement of the facts:

6 (1) the property, rents, revenues, and profits
7 received by the guardian, and belonging to the ward, during the term
8 of the guardianship;

9 (2) the disposition made of the property, rents,
10 revenues, and profits;

11 (3) the expenses and debts against the estate that
12 remain unpaid, if any;

13 (4) the property of the estate that remains in the
14 hands of the guardian, if any;

15 (5) that the guardian has paid all required bond
16 premiums;

17 (6) the tax returns the guardian has filed during the
18 guardianship;

19 (7) the amount of taxes the ward owed during the
20 guardianship that the guardian has paid;

21 (8) a complete account of the taxes the guardian has
22 paid during the guardianship, including the amount of the taxes,
23 the date the guardian paid the taxes, and the name of the
24 governmental entity to which the guardian paid the taxes;

25 (9) a description of all current delinquencies in the
26 filing of tax returns and the payment of taxes and a reason for each
27 delinquency; and

1 (10) other facts as appear necessary to a full and
2 definite understanding of the exact condition of the guardianship.

3 (b) On written application by the ward's guardian or any
4 person interested in the welfare of the ward, the court may order
5 and direct that identifying financial information of a ward or the
6 ward's estate that is required to be furnished for purposes of the
7 final account required under this section must be maintained in the
8 judicial files of the court. Identifying financial information
9 that is the subject of an order entered under this subsection may
10 not be filed with the clerk.

11 (c) An order issued under Subsection (b) of this section
12 must be accompanied by an information sheet containing the
13 identifying financial information referred to in the order and the
14 corresponding account information. As soon as practicable after
15 the date the court issues the order, the guardian of the estate
16 shall attach to the final account a statement specifying that
17 identifying financial information relevant to information
18 contained in the final account is being held in the judicial records
19 of the court.

20 SECTION 11. Section 871, Texas Probate Code, is amended by
21 adding Subsections (d), (e), and (f) to read as follows:

22 (d) On written application by the trustee or a person
23 interested in the welfare of the ward, the court may order and
24 direct that identifying financial information of a ward or the
25 ward's estate that is required to be furnished for purposes of an
26 annual accounting required under this section must be maintained in
27 the judicial files of the court. Identifying financial information

1 that is the subject of an order entered under this subsection may
2 not be filed with the clerk.

3 (e) An order issued under Subsection (d) of this section
4 must be accompanied by an information sheet containing the
5 identifying financial information referred to in the order and the
6 corresponding account information. As soon as practicable after
7 the date the court issues the order, the trustee shall attach to the
8 annual account a statement specifying that identifying financial
9 information relevant to information contained in the account is
10 being held in the judicial records of the court.

11 (f) Except as otherwise provided by the court, an order
12 issued under Subsection (d) of this section is a standing order that
13 applies to all subsequent annual accounts filed under this section.
14 The trustee must attach the statement described by Subsection (e)
15 of this section to each subsequent account.

16 SECTION 12. This Act takes effect September 1, 2005.