

By: Casteel

H.B. No. 3186

A BILL TO BE ENTITLED

AN ACT

relating to the sale of property of a decedent's estate.

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

SECTION 1. Section 331, Texas Probate Code, is amended to read as follows:

Sec. 331. [~~COURT MUST ORDER~~] SALES OF PROPERTY. (a) Except as hereinafter provided, no sale of any property of an estate shall be made without an order of court authorizing the same. The court may order property sold for cash or on credit, at public auction or privately, as it may consider most to the advantage of the estate, except when otherwise specially provided herein.

(b) Notwithstanding Subsection (a) of this section, during the three-year period after the date the court issues letters testamentary or letters of administration, as applicable, an independent executor, including a successor independent executor, may sell any estate property without a court order. The independent executor may sell the property for cash or on credit, at public auction or privately, and with the same authority as if the decedent had executed a will authorizing the independent executor to sell the property. The power granted by this subsection is subject to:

(1) any express limitation or qualification on the power of sale imposed by court order; and

(2) any express limitation on the power of sale as provided by Section 332 of this code.

1        (c) To the extent of a conflict between Subsection (b) of  
2 this section and the express terms of a decedent's will, the terms  
3 of the will prevail. To the extent of a conflict between Subsection  
4 (b) of this section and any other law with respect to the powers of  
5 an independent executor, the other law prevails.

6        SECTION 2. The change in law made by this Act to Section  
7 331, Texas Probate Code, applies only to an independent executor or  
8 independent administrator appointed on or after the effective date  
9 of this Act. An independent executor or independent administrator  
10 appointed before the effective date of this Act is governed by the  
11 law in effect on the date the executor or administrator was  
12 appointed, and the former law is continued in effect for that  
13 purpose.

14        SECTION 3. This Act takes effect September 1, 2005.