

By: Paxton

H.B. No. 1352

A BILL TO BE ENTITLED

AN ACT

relating to the operation of a farm, ranch, factory, or other business by the personal representative of a decedent's estate.

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

SECTION 1. Section 238, Texas Probate Code, is amended to read as follows:

Sec. 238. OPERATION OF FARM, RANCH, FACTORY, OR OTHER BUSINESS. (a) In this section, "business" includes a farm, ranch, or factory.

(b) A court, after notice to interested persons and a hearing, may render an order authorizing the personal representative of an estate to operate a farm, ranch, factory, or other business that is part of the estate assets. The order may specify that the personal representative is authorized to operate the business for:

(1) the period during which the estate is pending; or

(2) a shorter period, as provided by the court in the order.

(c) The court may order the personal representative to report to the court regarding the condition of the estate and the business being operated by the personal representative, as the court determines is necessary to preserve the estate.

(d) In addition to the powers granted to the personal representative under Section 234(b) of this code, the personal

1 representative has, on entry of an order under this section and
2 notwithstanding any other law, all powers necessary to operate the
3 business, including:

4 (1) all powers listed in Section 234(a) of this code
5 with respect to the business, without any additional court order;

6 (2) the power to hire and terminate the employment of
7 employees of the business;

8 (3) the power to incur debt on behalf of the business;
9 and

10 (4) all powers granted to a trustee under the Texas
11 Trust Code (Subtitle B, Title 9, Property Code).

12 (e) On entry of an order under Subsection (b) of this
13 section, the court clerk shall forward the order to the county clerk
14 of each county in which real property owned by the business is
15 located. The county clerk shall record the order in the real
16 property records of the county. The order constitutes notice of the
17 personal representative's powers under this section and may be
18 relied on by third parties dealing in good faith with the personal
19 representative with respect to the business. [~~If the estate owns a~~
20 ~~farm, ranch, factory, or other business, the disposition of which~~
21 ~~has not been specifically directed by will, and if the same be not~~
22 ~~required to be sold at once for the payment of debts or other lawful~~
23 ~~purposes, the representative, upon order of the court, shall carry~~
24 ~~on the operation of such farm, ranch, factory, or other business, or~~
25 ~~cause the same to be done, or rent the same, as shall appear to be~~
26 ~~for the best interest of the estate. In deciding, the court shall~~
27 ~~consider the condition of the estate, and the necessity that may~~

1 ~~exist for future sale of such property or business for the payment~~
2 ~~of debts, claims, or other lawful expenditures, and shall not~~
3 ~~extend the time of renting any of the property beyond what appears~~
4 ~~consistent with the speedy settlement of the estate of a deceased~~
5 ~~person or the settlement of his estate.]~~

6 SECTION 2. The change in law made by this Act applies to the
7 estate of a decedent that is pending on or after the effective date
8 of this Act, regardless of the decedent's date of death.

9 SECTION 3. This Act takes effect September 1, 2007.