

1-1 By: Naishtat (Senate Sponsor - Watson) H.B. No. 1710
1-2 (In the Senate - Received from the House April 10, 2007;
1-3 April 11, 2007, read first time and referred to Committee on
1-4 Jurisprudence; May 3, 2007, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; May 3, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the administration of community property.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 155, Texas Probate Code, is amended to
1-11 read as follows:

1-12 Sec. 155. NO NECESSITY FOR ADMINISTRATION OF COMMUNITY
1-13 PROPERTY. When a husband or wife dies intestate and the community
1-14 property passes to the survivor, no administration thereon~~[,~~
1-15 ~~community or otherwise,~~] shall be necessary. Nothing in this part
1-16 of this chapter prohibits the administration of community property
1-17 under other provisions of this code relating to the administration
1-18 of an estate.

1-19 SECTION 2. Section 156, Texas Probate Code, is amended to
1-20 read as follows:

1-21 Sec. 156. LIABILITY OF COMMUNITY PROPERTY FOR DEBTS. The
1-22 community property subject to the sole or joint management,
1-23 control, and disposition of a spouse during marriage continues to
1-24 be subject to the liabilities of that spouse upon death. In
1-25 addition, the interest that the deceased spouse owned in any other
1-26 nonexempt community property passes to his or her heirs or devisees
1-27 charged with the debts which were enforceable against such deceased
1-28 spouse prior to his or her death. The surviving spouse [~~In the~~
1-29 ~~administration of community estates, the survivor~~] or personal
1-30 representative shall keep a separate, distinct account of all
1-31 community debts allowed or paid in the administration and
1-32 settlement of such estate.

1-33 SECTION 3. Section 160(a), Texas Probate Code, is amended
1-34 to read as follows:

1-35 (a) When no one has qualified as executor or administrator
1-36 of the estate of a deceased spouse, the surviving spouse, whether
1-37 the husband or wife, as the surviving partner of the marital
1-38 partnership~~[,~~ ~~without qualifying as community administrator as~~
1-39 ~~hereinafter provided,~~] has power to sue and be sued for the recovery
1-40 of community property; to sell, mortgage, lease, and otherwise
1-41 dispose of community property for the purpose of paying community
1-42 debts; to collect claims due to the community estate; and has such
1-43 other powers as shall be necessary to preserve the community
1-44 property, discharge community obligations, and wind up community
1-45 affairs.

1-46 SECTION 4. Section 168, Texas Probate Code, is amended to
1-47 read as follows:

1-48 Sec. 168. ACCOUNTING BY SURVIVOR. The survivor~~[,~~ ~~whether~~
1-49 ~~qualified as community administrator or not,~~] shall keep a fair and
1-50 full account and statement of all community debts and expenses paid
1-51 by him, and of the disposition made of the community property; and,
1-52 upon final partition of such estate, shall deliver to the heirs,
1-53 devisees or legatees of the deceased spouse their interest in such
1-54 estate, and the increase and profits of the same, after deducting
1-55 therefrom the proportion of the community debts chargeable thereto,
1-56 unavoidable losses, necessary and reasonable expenses, and a
1-57 reasonable commission for the management of the same. The [~~Neither~~
1-58 ~~the~~] survivor may not [~~nor his bondsmen shall~~] be liable for losses
1-59 sustained by the estate, except when the survivor has been guilty of
1-60 gross negligence or bad faith.

1-61 SECTION 5. Section 176, Texas Probate Code, is amended to
1-62 read as follows:

1-63 Sec. 176. REMARRIAGE OF SURVIVING SPOUSE. The remarriage
1-64 of a surviving spouse shall not terminate the surviving spouse's

2-1 ~~[powers or liabilities as a qualified community administrator or~~
2-2 ~~administratrix, nor shall it terminate his or her]~~ powers as a
2-3 surviving partner.

2-4 SECTION 6. Section 177, Texas Probate Code, is amended to
2-5 read as follows:

2-6 Sec. 177. DISTRIBUTION OF POWERS AMONG PERSONAL
2-7 REPRESENTATIVES AND SURVIVING SPOUSE. ~~[(a) When Community~~
2-8 ~~Administrator Has Qualified. The qualified community administrator~~
2-9 ~~is entitled to administer the entire community estate, including~~
2-10 ~~the part which was by law under the management of the deceased~~
2-11 ~~spouse during the continuance of the marriage.~~

2-12 ~~[(b) When No Community Administrator Has Qualified.]~~ When a
2-13 personal representative of the estate of a deceased spouse has duly
2-14 qualified, the personal representative is authorized to
2-15 administer, not only the separate property of the deceased spouse,
2-16 but also the community property which was by law under the
2-17 management of the deceased spouse during the continuance of the
2-18 marriage and all of the community property that was by law under the
2-19 joint control of the spouses during the continuance of the
2-20 marriage. The surviving spouse, as surviving partner of the
2-21 marital partnership, is entitled to retain possession and control
2-22 of all community property which was legally under the sole
2-23 management of the surviving spouse during the continuance of the
2-24 marriage and to exercise over that property all the powers
2-25 elsewhere in this part of this code authorized to be exercised by
2-26 the surviving spouse when there is no administration pending on the
2-27 estate of the deceased spouse. The surviving spouse may by written
2-28 instrument filed with the clerk waive any right to exercise powers
2-29 as community survivor, and in such event the personal
2-30 representative of the deceased spouse shall be authorized to
2-31 administer upon the entire community estate.

2-32 SECTION 7. The following laws are repealed:

- 2-33 (1) Section 151(e), Texas Probate Code; and
- 2-34 (2) Sections 161, 162, 163, 164, 165, 166, 167, 169,
2-35 170, 171, 172, 173, 174, and 175, Texas Probate Code.

2-36 SECTION 8. The changes in law made by this Act to Part 5,
2-37 Chapter VI, Texas Probate Code, apply only to the estate of a
2-38 decedent who dies on or after the effective date of this Act. The
2-39 estate of a decedent who dies before the effective date of this Act
2-40 is governed by the law in effect on the date of the decedent's
2-41 death, and the former law is continued in effect for that purpose.

2-42 SECTION 9. This Act takes effect September 1, 2007.

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