

By: Wentworth

S.B. No. 1302

A BILL TO BE ENTITLED

AN ACT

relating to the estates of decedents.

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

ARTICLE 1. DEFINITIONS AND USE OF TERMS

SECTION 1.01. Section 3(r), Texas Probate Code, is amended to read as follows:

(r) "Interested persons" or "persons interested" means heirs, devisees, spouses, creditors, or any others having a property right in, or claim against, the estate being administered; and anyone interested in the welfare of an incapacitated person, including a minor [~~or incompetent ward~~].

SECTION 1.02. The changes in law made by this article apply to a proceeding that is pending or commenced on or after the effective date of this Act.

ARTICLE 2. DISCLAIMERS

SECTION 2.01. Section 37A, Texas Probate Code, is amended to read as follows:

Sec. 37A. MEANS OF EVIDENCING DISCLAIMER OR RENUNCIATION OF PROPERTY OR INTEREST RECEIVABLE FROM A DECEDENT. (a) Persons Who May Disclaim. Any person, or the guardian of an incapacitated person, the personal representative of a deceased person, or the guardian ad litem of an unborn or unascertained person, with prior court approval of the court having, or which would have, jurisdiction over such guardian, personal representative, or

1 guardian ad litem, or any independent executor of a deceased  
2 person, without prior court approval, or an attorney in fact or  
3 agent appointed under a durable power of attorney authorizing  
4 disclaimers that is executed by a principal, who may be entitled to  
5 receive any property as a beneficiary and who intends to effect  
6 disclaimer irrevocably on or after September 1, 1977, of the whole  
7 or any part of such property shall evidence same as herein provided.

8 (b) Effective Date of Disclaimer. A disclaimer evidenced as  
9 provided by this section [~~herein~~] shall be effective as of the death  
10 of decedent and shall relate back for all purposes to the death of  
11 the decedent and is not subject to the claims of any creditor of the  
12 disclaimant.

13 (c) Effect of Disclaimer. Unless the decedent's will  
14 provides otherwise, the property subject to the disclaimer shall  
15 pass as if the person disclaiming or on whose behalf a disclaimer is  
16 made had predeceased the decedent and a future interest that would  
17 otherwise take effect in possession or enjoyment after the  
18 termination of the estate or interest that is disclaimed takes  
19 effect as if the disclaiming beneficiary had predeceased the  
20 decedent.

21 (d) Ineffective Disclaimer. Failure to comply with the  
22 provisions of this section [~~hereof~~] shall render such disclaimer  
23 ineffective except as an assignment of such property to those who  
24 would have received same had the person attempting the disclaimer  
25 died prior to the decedent.

26 (e) Definitions. The term "property" as used in this  
27 section shall include all legal and equitable interests, powers,

1 and property, whether present or future, whether vested or  
2 contingent, and whether beneficial or burdensome, in whole or in  
3 part. The term "disclaimer" as used in this section shall include  
4 "renunciation." In this section "beneficiary" includes a person  
5 who would have been entitled, if the person had not made a  
6 disclaimer, to receive property as a result of the death of another  
7 person by inheritance, under a will, by an agreement between  
8 spouses for community property with a right of survivorship, by a  
9 joint tenancy with a right of survivorship, or by any other  
10 survivorship agreement, account, or interest in which the interest  
11 of the decedent passes to a surviving beneficiary, by an insurance,  
12 annuity, endowment, employment, deferred compensation, or other  
13 contract or arrangement, or under a pension, profit sharing,  
14 thrift, stock bonus, life insurance, survivor income, incentive, or  
15 other plan or program providing retirement, welfare, or fringe  
16 benefits with respect to an employee or a self-employed individual.

17 (f) Subsequent Disclaimers. Nothing in this section shall  
18 be construed to preclude a subsequent disclaimer by any person who  
19 shall be entitled to property as a result of a disclaimer.

20 (g) Form ~~[The following shall apply to such disclaimers:~~

21 ~~[(a) Written Memorandum]~~ of Disclaimer ~~[and Filing~~  
22 ~~Thereof]~~. In the case of property receivable by a beneficiary, the  
23 disclaimer shall be evidenced by a written memorandum, acknowledged  
24 before a notary public or other person authorized to take  
25 acknowledgements of conveyances of real estate.

26 (h) Filing of Disclaimer. Unless the beneficiary is a  
27 charitable organization or governmental agency of the state, a

1 written memorandum of disclaimer disclaiming a present interest  
2 shall be filed not later than nine months after the death of the  
3 decedent and a written memorandum of disclaimer disclaiming a  
4 future interest may be filed not later than nine months after the  
5 event determining that the taker of the property or interest is  
6 finally ascertained and his interest is indefeasibly vested. If  
7 the beneficiary is a charitable organization or a governmental  
8 agency of the state, a written memorandum of disclaimer disclaiming  
9 a present or future interest shall be filed not later than nine  
10 months after the beneficiary receives the notice required by  
11 Section 128A of this code. The written memorandum of disclaimer  
12 shall be filed in the probate court in which the decedent's will has  
13 been probated or in which proceedings have been commenced for the  
14 administration of the decedent's estate or which has before it an  
15 application for either of the same; provided, however, if the  
16 administration of the decedent's estate is closed, or after the  
17 expiration of one year following the date of the issuance of letters  
18 testamentary in an independent administration, or if there has been  
19 no will of the decedent probated or filed for probate, or if no  
20 administration of the decedent's estate has been commenced, or if  
21 no application for administration of the decedent's estate has been  
22 filed, the written memorandum of disclaimer shall be filed with the  
23 county clerk of the county of the decedent's residence, or, if the  
24 decedent is not a resident of this state but real property or an  
25 interest therein located in this state is disclaimed, a written  
26 memorandum of disclaimer shall be filed with the county clerk of the  
27 county in which such real property or interest therein is located,

1 and recorded by such county clerk in the deed records of that  
2 county.

3 (i) [~~(b)~~] Notice of Disclaimer. Unless the beneficiary is a  
4 charitable organization or governmental agency of the state, copies  
5 of any written memorandum of disclaimer shall be delivered in  
6 person to, or shall be mailed by registered or certified mail to and  
7 received by, the legal representative of the transferor of the  
8 interest or the holder of legal title to the property to which the  
9 disclaimer relates not later than nine months after the death of the  
10 decedent or, if the interest is a future interest, not later than  
11 nine months after the date the person who will receive the property  
12 or interest is finally ascertained and the person's interest is  
13 indefeasibly vested. If the beneficiary is a charitable  
14 organization or government agency of the state, the notices  
15 required by this section shall be filed not later than nine months  
16 after the beneficiary receives the notice required by Section 128A  
17 of this code.

18 (j) [~~(c)~~] Power to Provide for Disclaimer. Nothing herein  
19 shall prevent a person from providing in a will, insurance policy,  
20 employee benefit agreement, or other instrument for the making of  
21 disclaimers by a beneficiary of an interest receivable under that  
22 instrument and for the disposition of disclaimed property in a  
23 manner different from the provisions hereof.

24 (k) [~~(d)~~] Irrevocability of Disclaimer. Any disclaimer  
25 filed and served under this section shall be irrevocable.

26 (l) [~~(e)~~] Partial Disclaimer. Any person who may be  
27 entitled to receive any property as a beneficiary may disclaim such

1 property in whole or in part, including but not limited to specific  
2 powers of invasion, powers of appointment, and fee estate in favor  
3 of life estates; and a partial disclaimer or renunciation, in  
4 accordance with the provisions of this section, shall be effective  
5 whether the property so renounced or disclaimed constitutes a  
6 portion of a single, aggregate gift or constitutes part or all of a  
7 separate, independent gift; provided, however, that a partial  
8 disclaimer shall be effective only with respect to property  
9 expressly described or referred to by category in such disclaimer;  
10 and provided further, that a partial disclaimer of property which  
11 is subject to a burdensome interest created by the decedent's will  
12 shall not be effective unless such property constitutes a gift  
13 which is separate and distinct from undisclaimed gifts.

14 (m) [~~(f)~~] Partial Disclaimer by Spouse. Without limiting  
15 Subsection (1) [~~(e)~~] of this section, a disclaimer by the  
16 decedent's surviving spouse of a transfer by the decedent is not a  
17 disclaimer by the surviving spouse of all or any part of any other  
18 transfer from the decedent to or for the benefit of the surviving  
19 spouse, regardless of whether the property or interest that would  
20 have passed under the disclaimed transfer passes because of the  
21 disclaimer to or for the benefit of the surviving spouse by the  
22 other transfer.

23 (n) [~~(g)~~] Disclaimer After Acceptance. No disclaimer shall  
24 be effective after the acceptance of the property by the  
25 beneficiary. For the purpose of this subsection [~~section~~],  
26 acceptance shall occur only if the person making such disclaimer  
27 has previously taken possession or exercised dominion and control

1 of such property in the capacity of beneficiary.

2 (o) [~~(h)~~] Interest in Trust Property. A beneficiary who  
3 accepts an interest in a trust is not considered to have a direct or  
4 indirect interest in trust property that relates to a licensed or  
5 permitted business and over which the beneficiary exercises no  
6 control. Direct or indirect beneficial ownership of not more than  
7 five percent of any class of equity securities that is registered  
8 under the Securities Exchange Act of 1934 shall not be deemed to be  
9 an ownership interest in the business of the issuer of such  
10 securities within the meaning of any statute, pursuant thereto.

11 SECTION 2.02. Section 37B(b), Texas Probate Code, is  
12 amended to read as follows:

13 (b) The assignment may, at the request of the assignor, be  
14 filed as provided for the filing of a disclaimer under Section  
15 37A(h) [~~37A(a)~~] of this code. The filing requires the service of  
16 notice under Section 37A(i) [~~37A(b)~~] of this code.

17 ARTICLE 3. DISSOLUTION OF MARRIAGE;

18 EFFECT ON DECEDENTS' ESTATES

19 SECTION 3.01. Chapter II, Texas Probate Code, is amended by  
20 adding Section 47A to read as follows:

21 Sec. 47A. MARRIAGE VOIDABLE BASED ON MENTAL INCAPACITY.

22 (a) An interested person may file an application with the court  
23 requesting that the court void the marriage of a decedent who, on  
24 the date of the decedent's death, was married. The notice  
25 applicable to a proceeding for a declaratory judgment under Chapter  
26 37, Civil Practice and Remedies Code, applies to a proceeding under  
27 this section.

1        (b) Except as provided by Subsection (c) of this section,  
2 the court shall declare the decedent's marriage void if the court  
3 finds that, on the date the marriage occurred, the decedent did not  
4 have the mental capacity to:

5                (1) consent to the marriage; and

6                (2) understand the nature of the marriage ceremony, if  
7 a ceremony occurred.

8        (c) A court that makes a finding described by Subsection (b)  
9 of this section may not declare the decedent's marriage void if the  
10 court finds that, after the date the marriage occurred, the  
11 decedent:

12                (1) gained the mental capacity to recognize the  
13 marriage relationship; and

14                (2) did recognize the marriage relationship.

15        (d) If the court declares a decedent's marriage void in a  
16 proceeding under this section, the other party to the marriage is  
17 not considered the decedent's surviving spouse for purposes of any  
18 law of this state.

19        SECTION 3.02. Section 69, Texas Probate Code, is amended to  
20 read as follows:

21        Sec. 69. WILL PROVISIONS MADE BEFORE DISSOLUTION OF  
22 MARRIAGE [~~VOIDNESS ARISING FROM DIVORCE~~]. (a) In this section,  
23 "relative" means an individual who is related to another individual  
24 by consanguinity or affinity, as determined under Sections 573.022  
25 and 573.024, Government Code, respectively.

26        (b) If, after making a will, the testator's marriage is  
27 dissolved, whether by divorce, annulment, or a declaration that the



1 marriage is void [~~testator is divorced or the testator's marriage~~  
2 ~~is annulled~~], all provisions in the will, including all fiduciary  
3 appointments [~~in favor of the testator's former spouse, or~~  
4 ~~appointing such spouse to any fiduciary capacity under the will or~~  
5 ~~with respect to the estate or person of the testator's children~~],  
6 shall [~~must~~] be read as if the former spouse and each relative of  
7 the former spouse who is not a relative of the testator failed to  
8 survive the testator, [~~and shall be null and void and of no effect~~]  
9 unless the will expressly provides otherwise.

10 (c) [~~(b)~~] A person whose marriage to [~~who is divorced from~~]  
11 the decedent has been dissolved, whether by divorce, annulment, or  
12 a declaration that the marriage is void, [~~or whose marriage to the~~  
13 ~~decedent has been annulled~~] is not a surviving spouse unless, by  
14 virtue of a subsequent marriage, the person is married to the  
15 decedent at the time of death and the subsequent marriage is not  
16 declared void under Section 47A of this code.

17 SECTION 3.03. Section 6.111, Family Code, is amended to  
18 read as follows:

19 Sec. 6.111. DEATH OF PARTY TO VOIDABLE MARRIAGE. Except as  
20 provided by Section 47A, Texas Probate Code, a [A] marriage subject  
21 to annulment may not be challenged in a proceeding instituted after  
22 the death of either party to the marriage.

23 SECTION 3.04. (a) Except as provided by Subsection (b) of  
24 this section, the changes in law made by this article apply only to:

25 (1) the estate of a decedent who dies before the  
26 effective date of this Act, if the probate or administration of the  
27 estate is pending on or commenced on or after the effective date of

1 this Act; and

2 (2) the estate of a decedent who dies on or after the  
3 effective date of this Act.

4 (b) The changes in law made by this article to Section 69,  
5 Texas Probate Code, apply only to the estate of a decedent who dies  
6 on or after the effective date of this Act. The estate of a decedent  
7 who dies before the effective date of this Act is governed by the  
8 law in effect on the date of the decedent's death, and the former  
9 law is continued in effect for that purpose.

10 ARTICLE 4. NUNCUPATIVE, OR ORAL, WILLS

11 SECTION 4.01. Section 82, Texas Probate Code, is amended to  
12 read as follows:

13 Sec. 82. CONTENTS OF APPLICATION FOR LETTERS OF  
14 ADMINISTRATION. An application for letters of administration when  
15 no will [~~, written or oral,~~] is alleged to exist shall state:

16 (a) The name and domicile of the applicant,  
17 relationship to the decedent, if any, and that the applicant is not  
18 disqualified by law to act as administrator;

19 (b) The name and intestacy of the decedent, and the  
20 fact, time and place of death;

21 (c) Facts necessary to show venue in the court to which  
22 the application is made;

23 (d) Whether the decedent owned real or personal  
24 property, with a statement of its probable value;

25 (e) The name, age, marital status and address, if  
26 known, and the relationship, if any, of each heir to the decedent;

27 (f) If known by the applicant at the time of the filing

1 of the application, whether children were born to or adopted by the  
2 decedent, with the name and the date and place of birth of each;

3 (g) If known by the applicant at the time of the filing  
4 of the application, whether the decedent was ever divorced, and if  
5 so, when and from whom; and

6 (h) That a necessity exists for administration of the  
7 estate, alleging the facts which show such necessity.

8 SECTION 4.02. Section 91, Texas Probate Code, is amended to  
9 read as follows:

10 Sec. 91. WHEN WILL NOT IN CUSTODY OF COURT[~~, OR ORAL~~]. If  
11 for any reason a written will is not in the custody of the court, [~~or~~  
12 ~~if the will is oral,~~] the court shall find the contents thereof by  
13 written order, and certified copies of same as so established by the  
14 court may be recorded in other counties, and may be used in  
15 evidence, as in the case of certified copies of written wills in the  
16 custody of the court.

17 SECTION 4.03. Section 128(b), Texas Probate Code, is  
18 amended to read as follows:

19 (b) Where Application Is for Probate of a Written Will Not  
20 Produced [~~or of a Nuncupative Will~~]. When the application is for the  
21 probate of a [~~nuncupative will, or of a~~] written will which cannot  
22 be produced in court, the clerk shall issue a citation to all  
23 parties interested in such estate, which citation shall contain  
24 substantially the statements made in the application for probate,  
25 and the time when, place where, and the court before which such  
26 application will be acted upon. If the heirs of the testator be  
27 residents of this state, and their residence be known, the citation

1 shall be served upon them by personal service. Service of such  
2 citation may be made by publication in the following cases:

- 3 (1) When the heirs are non-residents of this state; or
- 4 (2) When their names or their residences are unknown;
- 5 or
- 6 (3) When they are transient persons.

7 SECTION 4.04. Section 128A(a), Texas Probate Code, is  
8 amended to read as follows:

9 (a) If the address of the entity can be ascertained with  
10 reasonable diligence, an applicant under Section 81 of this code  
11 shall give the state, a governmental agency of the state, or a  
12 charitable organization notice that the entity is named as a  
13 devisee in a written will or ~~[7]~~ a written will not produced~~[7, or a~~  
14 ~~nuncupative will]~~ that has been admitted to probate.

15 SECTION 4.05. Sections 64, 65, 81(c), 86, and 89A(c), Texas  
16 Probate Code, are repealed.

17 SECTION 4.06. The changes in law made by this article apply  
18 only to a nuncupative, or oral, will made on or after the effective  
19 date of this Act. A nuncupative, or oral, will made before the  
20 effective date of this Act is governed by the law in effect on the  
21 date the will was made, and the former law is continued in effect  
22 for that purpose.

23 ARTICLE 5. WRITTEN WILLS NOT PRODUCED

24 SECTION 5.01. Section 85, Texas Probate Code, is amended to  
25 read as follows:

26 Sec. 85. PROOF OF WRITTEN WILL NOT PRODUCED IN COURT. A  
27 written will which cannot be produced in court shall be proved in

1 the same manner as provided in the preceding Section for an attested  
2 written will or an holographic will, as the case may be, and the  
3 same amount and character of testimony shall be required to prove  
4 such will as is required to prove a written will produced in court;  
5 but, in addition thereto, the cause of its non-production must be  
6 proved, and such cause must be sufficient to satisfy the court that  
7 it cannot by any reasonable diligence be produced, and the contents  
8 of such will must be substantially proved by the testimony of a  
9 credible witness who has read the will, has [~~it or~~] heard the will  
10 [~~it~~] read, or can identify a copy of the will.

11 SECTION 5.02. The changes in law made by this article apply  
12 only to:

13 (1) the estate of a decedent who dies before the  
14 effective date of this Act, if the probate or administration of the  
15 estate is pending on or commenced on or after the effective date of  
16 this Act; and

17 (2) the estate of a decedent who dies on or after the  
18 effective date of this Act.

19 ARTICLE 6. GRANTING OF ADMINISTRATION OF DECEDENTS' ESTATES

20 SECTION 6.01. Section 83(c), Texas Probate Code, is amended  
21 to read as follows:

22 (c) Where Letters of Administration Have Been Granted.  
23 Whenever letters of administration shall have been granted upon an  
24 estate, and it shall afterwards be discovered that the deceased  
25 left a lawful will, such will may be proved in the manner provided  
26 for the proof of wills; and, if an executor is named in such will,  
27 and he is not disqualified, he shall be allowed to qualify and

1 accept as such executor, and the letters previously granted shall  
2 be revoked; but, if no such executor be named in the will, or if the  
3 executor named be disqualified, be dead, or shall renounce the  
4 executorship, or shall [~~neglect or otherwise~~] fail or be unable to  
5 accept and qualify within twenty days after the date of the probate  
6 of the will, or shall fail [~~neglect~~] for a period of thirty days  
7 after the discovery of such will to present it for probate, then  
8 administration with the will annexed of the estate of such testator  
9 shall be granted as in other cases. All acts done by the first  
10 administrator, prior to the qualification of the executor or of the  
11 administrator with the will annexed, shall be as valid as if no such  
12 will had been discovered.

13 SECTION 6.02. Section 178(b), Texas Probate Code, is  
14 amended to read as follows:

15 (b) Letters of Administration. When a person shall die  
16 intestate, or where no executor is named in a will, or where the  
17 executor is dead or shall fail [~~or neglect~~] to accept and qualify  
18 within twenty days after the probate of the will, or shall fail  
19 [~~neglect~~] for a period of thirty days after the death of the  
20 testator to present the will for probate and the court finds there  
21 was no good cause for not presenting the will for probate during  
22 that period, then administration of the estate of such intestate,  
23 or administration with the will annexed of the estate of such  
24 testator, shall be granted, should administration appear to be  
25 necessary. No administration of any estate shall be granted unless  
26 there exists a necessity therefor, such necessity to be determined  
27 by the court hearing the application. Such necessity shall be

1 deemed to exist if two or more debts exist against the estate, or if  
2 or when it is desired to have the county court partition the estate  
3 among the distributees, or if the administration is necessary to  
4 receive or recover funds or other property due the estate, but  
5 mention of these three [~~two~~] instances of necessity for  
6 administration shall not prevent the court from finding other  
7 instances of necessity upon proof before it.

8 SECTION 6.03. Section 179, Texas Probate Code, is amended  
9 to read as follows:

10 Sec. 179. OPPOSITION TO GRANT OF LETTERS OF ADMINISTRATION.  
11 When application is made for letters of administration, any  
12 interested person may at any time before the application is  
13 granted, file the person's [~~his~~] opposition thereto in writing, and  
14 may apply for the grant of letters to the person [~~himself~~] or to any  
15 other person; and, upon the trial, the court shall grant letters to  
16 the person that may seem best entitled to them, having regard to  
17 applicable provisions of this Code, without further notice than  
18 that of the original application.

19 SECTION 6.04. Section 190(b), Texas Probate Code, is  
20 amended to read as follows:

21 (b) Administrator. Before the issuance of letters of  
22 administration, the person appointed administrator shall take and  
23 subscribe an oath in form substantially as follows: "I do solemnly  
24 swear that \_\_\_\_\_, deceased, died without leaving any lawful will  
25 (or that the named executor in any such will is dead or has failed  
26 [~~or neglected~~] to offer the same for probate, or to accept and  
27 qualify as executor, within the time required, as the case may be),

1 so far as I know or believe, and that I will well and truly perform  
2 all the duties of administrator of the estate of said deceased."

3 SECTION 6.05. The changes in law made by this article apply  
4 to an application for the administration of an estate that is  
5 pending on or filed on or after the effective date of this Act.

6 ARTICLE 7. SALES OF ESTATE PROPERTY

7 SECTION 7.01. Section 344, Texas Probate Code, is amended  
8 to read as follows:

9 Sec. 344. CITATION [~~AND RETURN~~] ON APPLICATION. Upon the  
10 filing of such application and exhibit, the clerk shall issue a  
11 citation to all persons interested in the estate, describing the  
12 land or interest or part thereof sought to be sold, and informing  
13 ~~[requiring]~~ them of the right under Section 345 of this code to file  
14 an opposition to the sale during the period prescribed by the court  
15 ~~[to appear at the time set by the court]~~ as shown in the citation  
16 ~~[and show cause why the sale should not be made]~~, if they so elect.  
17 Service of such citation shall be by posting.

18 SECTION 7.02. Section 345, Texas Probate Code, is amended  
19 to read as follows:

20 Sec. 345. OPPOSITION TO APPLICATION. When an application  
21 for an order of sale is made, any person interested in the estate  
22 may, during the period provided in the citation issued under  
23 Section 344 of this code ~~[before an order is made thereon]~~, file his  
24 opposition to the sale, in writing, or may make application for the  
25 sale of other property of the estate.

26 SECTION 7.03. Part 5, Chapter VIII, Texas Probate Code, is  
27 amended by adding Section 345A to read as follows:



Sec. 345A. HEARING ON APPLICATION AND ANY OPPOSITION. (a)

The clerk of a court in which an application for an order of sale is filed shall immediately call to the attention of the judge any opposition to the sale that is filed during the period provided in the citation issued under Section 344 of this code. The court shall hold a hearing on an application if an opposition to the sale is filed during the period provided in the citation.

(b) A hearing on an application for an order of sale is not required under this section if no opposition to the application is filed during the period provided in the citation. The court, in its discretion, may determine that a hearing is necessary on the application even if no opposition was filed during that period.

(c) If the court orders a hearing under Subsection (a) or (b) of this section, the court shall designate in writing a date and time for hearing the application and any opposition, together with the evidence pertaining to the application and opposition. The clerk shall issue a notice to the applicant and to each person who files an opposition to the sale, if applicable, of the date and time of the hearing.

(d) The judge may, by entries on the docket, continue a hearing held under this section from time to time until the judge is satisfied concerning the application.

SECTION 7.04. Section 346, Texas Probate Code, is amended to read as follows:

Sec. 346. ORDER OF SALE. If satisfied [~~upon hearing~~] that the sale of the property of the estate described in the application is necessary or advisable, the court shall order the sale to be

1 made; otherwise, the court may deny the application and may, if it  
2 deems best, order the sale of other property the sale of which would  
3 be more advantageous to the estate. An order for the sale of real  
4 estate shall specify:

5 (a) The property to be sold, giving such description  
6 as will identify it; and

7 (b) Whether the property is to be sold at public  
8 auction or at private sale, and, if at public auction, the time and  
9 place of such sale; and

10 (c) The necessity or advisability of the sale and its  
11 purpose; and

12 (d) Except in cases in which no general bond is  
13 required, that, having examined the general bond of the  
14 representative of the estate, the court finds it to be sufficient as  
15 required by law, or finds the same to be insufficient and specifies  
16 the necessary or increased bond, as the case may be; and

17 (e) That the sale shall be made and the report returned  
18 in accordance with law; and

19 (f) The terms of the sale.

20 SECTION 7.05. Section 343, Texas Probate Code, is repealed.

21 SECTION 7.06. The changes in law made by this article apply  
22 only to:

23 (1) the estate of a decedent who dies before the  
24 effective date of this Act, if the probate or administration of the  
25 estate is pending on the effective date of this Act; and

26 (2) the estate of a decedent who dies on or after the  
27 effective date of this Act.

1                                   ARTICLE 8. EFFECTIVE DATE  
2                   SECTION 8.01. This Act takes effect September 1, 2007.