

1-1 By: Watson S.B. No. 1623  
1-2 (In the Senate - Filed March 8, 2007; March 21, 2007, read  
1-3 first time and referred to Committee on Jurisprudence;  
1-4 April 10, 2007, reported favorably by the following vote: Yeas 5,  
1-5 Nays 0; April 10, 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. Subsection (a), Section 160, Texas Probate Code,  
1-34 is amended 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~~  
2-9 ~~administrator is entitled to administer the entire community~~  
2-10 ~~estate, including the part which was by law under the management of~~  
2-11 ~~the deceased 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) Subsection (e), Section 151, Texas Probate Code;  
2-34 and

2-35 (2) Sections 161 through 167 and 169 through 175,  
2-36 Texas Probate Code.

2-37 SECTION 8. The changes in law made by this Act to Part 5,  
2-38 Chapter VI, Texas Probate Code, apply only to the estate of a  
2-39 decedent who dies on or after the effective date of this Act. The  
2-40 estate of a decedent who dies before the effective date of this Act  
2-41 is governed by the law in effect on the date of the decedent's  
2-42 death, and the former law is continued in effect for that purpose.

2-43 SECTION 9. This Act takes effect September 1, 2007.

2-44 \* \* \* \* \*