

1-1 By: Hartnett (Senate Sponsor - Watson) H.B. No. 3085
1-2 (In the Senate - Received from the House May 13, 2009;
1-3 May 14, 2009, read first time and referred to Committee on
1-4 Jurisprudence; May 23, 2009, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 23, 2009, sent to printer.)

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

1-8 relating to the independent administration of a decedent's estate.

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

1-10 ARTICLE 1. INDEPENDENT ADMINISTRATION: TEXAS PROBATE CODE

1-11 SECTION 1.01. The Texas Probate Code is amended by adding
1-12 Chapter VI-1 to read as follows:

1-13 CHAPTER VI-1. INDEPENDENT ADMINISTRATION

1-14 PART 1. CREATION

1-15 Sec. 177A. EXPRESSION OF TESTATOR'S INTENT IN WILL. (a)

1-16 Any person capable of making a will may provide in the person's will
1-17 that no other action shall be had in the probate court in relation
1-18 to the settlement of the person's estate than the probating and
1-19 recording of the will and the return of an inventory, appraisement,
1-20 and list of claims of the person's estate.

1-21 (b) Any person capable of making a will may provide in the
1-22 person's will that no independent administration of his or her
1-23 estate may be allowed. In such case the person's estate, if
1-24 administered, shall be administered and settled under the direction
1-25 of the probate court as other estates are required to be settled and
1-26 not as an independent administration.

1-27 Sec. 177B. CREATION IN TESTATE ESTATE BY AGREEMENT. (a)

1-28 Except as provided in Section 177A(b) of this code, if a decedent's
1-29 will names an executor but the will does not provide for independent
1-30 administration as provided in Section 177A(a) of this code, all of
1-31 the distributees of the decedent may agree on the advisability of
1-32 having an independent administration and collectively designate in
1-33 the application for probate of the decedent's will the executor
1-34 named in the will to serve as independent executor and request in
1-35 the application that no other action shall be had in the probate
1-36 court in relation to the settlement of the decedent's estate other
1-37 than the probating and recording of the decedent's will and the
1-38 return of an inventory, appraisement, and list of claims of the
1-39 decedent's estate. In such case the probate court shall enter an
1-40 order granting independent administration and appointing the
1-41 person, firm, or corporation designated in the application as
1-42 independent executor, unless the court finds that it would not be in
1-43 the best interest of the estate to do so.

1-44 (b) Except as provided in Section 177A(b) of this code, in
1-45 situations where no executor is named in the decedent's will, or in
1-46 situations where each executor named in the will is deceased or is
1-47 disqualified to serve as executor or indicates by affidavit filed
1-48 with the application for administration of the decedent's estate
1-49 the executor's inability or unwillingness to serve as executor, all
1-50 of the distributees of the decedent may agree on the advisability of
1-51 having an independent administration and collectively designate in
1-52 the application for probate of the decedent's will a qualified
1-53 person, firm, or corporation to serve as independent administrator
1-54 and request in the application that no other action shall be had in
1-55 the probate court in relation to the settlement of the decedent's
1-56 estate other than the probating and recording of the decedent's
1-57 will and the return of an inventory, appraisement, and list of
1-58 claims of the decedent's estate. In such case the probate court
1-59 shall enter an order granting independent administration and
1-60 appointing the person, firm, or corporation designated in the
1-61 application as independent administrator, unless the court finds
1-62 that it would not be in the best interest of the estate to do so.

1-63 Sec. 177C. CREATION IN INTESTATE ESTATE BY AGREEMENT. (a)

1-64 All of the distributees of a decedent dying intestate may agree on

2-1 the advisability of having an independent administration and
 2-2 collectively designate in the application for administration of the
 2-3 decedent's estate a qualified person, firm, or corporation to serve
 2-4 as independent administrator and request in the application that no
 2-5 other action shall be had in the probate court in relation to the
 2-6 settlement of the decedent's estate other than the return of an
 2-7 inventory, appraisement, and list of claims of the decedent's
 2-8 estate. In such case the probate court shall enter an order
 2-9 granting independent administration and appointing the person,
 2-10 firm, or corporation designated in the application as independent
 2-11 administrator, unless the court finds that it would not be in the
 2-12 best interest of the estate to do so.

2-13 (b) The court shall not appoint an independent
 2-14 administrator to serve in an intestate administration unless and
 2-15 until the parties seeking appointment of the independent
 2-16 administrator have been determined, through a proceeding to declare
 2-17 heirship under Chapter III of this code, to constitute all of the
 2-18 decedent's heirs.

2-19 Sec. 177D. MEANS OF ESTABLISHING DISTRIBUTEE CONSENT. (a)
 2-20 This section applies to the creation of an independent
 2-21 administration under Section 177B or 177C of this code.

2-22 (b) All distributees shall be served with citation and
 2-23 notice of the application for independent administration unless the
 2-24 distributee waives the issuance or service of citation or enters an
 2-25 appearance in court.

2-26 (c) If a distributee is an incapacitated person, the
 2-27 guardian of the person of the distributee may sign the application
 2-28 on behalf of the distributee. If the probate court finds that
 2-29 either the granting of independent administration or the
 2-30 appointment of the person, firm, or corporation designated in the
 2-31 application as independent executor would not be in the best
 2-32 interest of the incapacitated person, then, notwithstanding
 2-33 anything to the contrary in Section 177B or 177C of this code, the
 2-34 court shall not enter an order granting independent administration
 2-35 of the estate. If a distributee who is an incapacitated person has
 2-36 no guardian of the person, the probate court may appoint a guardian
 2-37 ad litem to make application on behalf of the incapacitated person
 2-38 if the court considers such an appointment necessary to protect the
 2-39 interest of the distributees. Alternatively, if the distributee who
 2-40 is an incapacitated person is a minor and has no guardian of the
 2-41 person, the natural guardian or guardians of such minor may consent
 2-42 on behalf of such incapacitated person if there is no conflict of
 2-43 interest between the minor and such natural guardian or guardians.

2-44 (d) If a trust is created in the decedent's will, the person
 2-45 or class of persons first eligible to receive the income from the
 2-46 trust, when determined as if the trust were to be in existence on
 2-47 the date of the decedent's death, shall, for the purposes of Section
 2-48 177B of this code, be considered to be the distributee or
 2-49 distributees on behalf of such trust, and any other trust or trusts
 2-50 coming into existence on the termination of such trust, and are
 2-51 authorized to apply for independent administration on behalf of the
 2-52 trusts without the consent or agreement of the trustee or any other
 2-53 beneficiary of the trust, or the trustee or any beneficiary of any
 2-54 other trust which may come into existence on the termination of such
 2-55 trust. If a person who is a trust beneficiary and who is considered
 2-56 to be a distributee under this subsection is an incapacitated
 2-57 person, then such trustee or cotrustee may file the application or
 2-58 give the consent, provided that such trustee or cotrustee is not the
 2-59 person proposed to serve as the independent executor.

2-60 (e) If a life estate is created either in the decedent's
 2-61 will or by law, the life tenant or life tenants, when determined as
 2-62 if the life estate were to commence on the date of the decedent's
 2-63 death, shall, for the purposes of Section 177B or 177C of this code,
 2-64 be considered to be the distributee or distributees on behalf of the
 2-65 entire estate created, and are authorized to apply for independent
 2-66 administration on behalf of the estate without the consent or
 2-67 approval of any remainderman.

2-68 (f) If a decedent's will contains a provision that a
 2-69 distributee must survive the decedent by a prescribed period of

3-1 time in order to take under the decedent's will, then, for the
 3-2 purposes of determining who shall be the distributee under Section
 3-3 177B of this code and under Subsection (c) of this section, it shall
 3-4 be presumed that the distributees living at the time of the filing
 3-5 of the application for probate of the decedent's will survived the
 3-6 decedent by the prescribed period.

3-7 (g) In the case of all decedents, whether dying testate or
 3-8 intestate, for the purposes of determining who shall be the
 3-9 distributees under Section 177B or 177C of this code and under
 3-10 Subsection (c) of this section, it shall be presumed that no
 3-11 distributee living at the time the application for independent
 3-12 administration is filed shall subsequently disclaim any portion of
 3-13 such distributee's interest in the decedent's estate.

3-14 (h) If a distributee of a decedent's estate should die and
 3-15 if by virtue of such distributee's death such distributee's share of
 3-16 the decedent's estate shall become payable to such distributee's
 3-17 estate, then the deceased distributee's personal representative
 3-18 may sign the application for independent administration of the
 3-19 decedent's estate under Section 177B or 177C of this code and under
 3-20 Subsection (c) of this section.

3-21 Sec. 177E. BOND; WAIVER OF BOND. If an independent
 3-22 administration of a decedent's estate is created under Section 177B
 3-23 or 177C of this code, then, unless the probate court waives bond on
 3-24 application for waiver, the independent executor shall be required
 3-25 to enter into bond payable to and to be approved by the judge and the
 3-26 judge's successors in a sum that is found by the judge to be
 3-27 adequate under all circumstances, or a bond with one surety in a sum
 3-28 that is found by the judge to be adequate under all circumstances,
 3-29 if the surety is an authorized corporate surety. This section does
 3-30 not repeal any other section of this code.

3-31 Sec. 177F. GRANTING POWER OF SALE BY AGREEMENT. In a
 3-32 situation in which a decedent does not have a will or the will does
 3-33 not contain or insufficiently contains language authorizing the
 3-34 personal representative to sell real property, the court may
 3-35 include in an order appointing an independent executor under
 3-36 Section 177B or 177C of this code such general or specific authority
 3-37 regarding the power of the independent executor to sell real
 3-38 property as may be consented to by the beneficiaries who are to
 3-39 receive any such real property in their consents to the independent
 3-40 administration. The independent executor, in such event, may sell
 3-41 the real property under the authority granted in the court order
 3-42 without the further consent of those beneficiaries.

3-43 Sec. 177G. NO LIABILITY OF JUDGE. Absent proof of fraud or
 3-44 collusion on the part of a judge, no judge may be held civilly
 3-45 liable for the commission of misdeeds or the omission of any
 3-46 required act of any person, firm, or corporation designated as an
 3-47 independent executor under Section 177B or 177C of this code.
 3-48 Section 36 of this code does not apply to the appointment of an
 3-49 independent executor under Section 177B or 177C of this code.

3-50 Sec. 177H. PERSON DECLINING TO SERVE. A person who declines
 3-51 to serve or resigns as independent executor of a decedent's estate
 3-52 may be appointed an executor or administrator of the estate if the
 3-53 estate will be administered and settled under the direction of the
 3-54 court.

3-55 PART 2. ADMINISTRATION

3-56 Sec. 177I. GENERAL SCOPE AND EXERCISE OF POWERS. When an
 3-57 independent administration has been created, and the order
 3-58 appointing an independent executor has been entered by the probate
 3-59 court, and the inventory, appraisement, and list of claims has been
 3-60 filed by the independent executor and approved by the court, as long
 3-61 as the estate is represented by an independent executor, further
 3-62 action of any nature shall not be had in the probate court except
 3-63 where this code specifically and explicitly provides for some
 3-64 action in such court.

3-65 Sec. 177J. INDEPENDENT EXECUTORS MAY ACT WITHOUT COURT
 3-66 APPROVAL. Unless this code specifically provides otherwise, any
 3-67 action that a personal representative subject to court supervision
 3-68 may do with or without a court order may be taken by an independent
 3-69 executor without a court order. The other provisions of this

4-1 chapter are designed to provide additional guidance regarding
 4-2 independent administrations in specified situations, and are not
 4-3 designed to limit by omission or otherwise the application of the
 4-4 general principles set forth in this part.

4-5 Sec. 177K. POWER OF SALE. (a) General. (1) An independent
 4-6 executor has the power of sale set forth in the will, if applicable,
 4-7 exercisable without court approval as otherwise provided for
 4-8 independent administrations.

4-9 (2) Unless limited by the terms of a will, an
 4-10 independent executor has, in addition to any power of sale given in
 4-11 the will, the same power of sale for the same purposes as personal
 4-12 representatives have in a supervised administration, but without
 4-13 the requirement of court approval. The procedural requirements
 4-14 applicable to a supervised administration do not apply.

4-15 (b) Protection of Person Purchasing Estate Property. (1) A
 4-16 person who is not a devisee or heir is not required to inquire into
 4-17 the independent executor's power of sale or the propriety of the
 4-18 exercise of the power of sale if the person deals with the
 4-19 independent executor in good faith and:

4-20 (A) a power of sale is granted to the independent
 4-21 executor in the will or in the court order appointing the
 4-22 independent executor; or

4-23 (B) the independent executor provides an
 4-24 affidavit, sworn to under oath and recorded in the deed records of
 4-25 the county where the property is located, that the sale is necessary
 4-26 or advisable for any of the purposes described in Section 341(1) of
 4-27 this code.

4-28 (2) As to acts undertaken in good faith reliance, the
 4-29 affidavit executed by the independent executor and described by
 4-30 Subsection (b)(1)(B) of this section is conclusive proof, as between
 4-31 a purchaser of property from an estate, and the personal
 4-32 representative of an estate or the heirs and distributees of the
 4-33 estate, with respect to the authority of the independent executor
 4-34 to sell the property. The signature or joinder of any person who is
 4-35 a devisee or heir and who has an interest in the property being sold
 4-36 as described in this section is not necessary for the purchaser to
 4-37 obtain all right, title, and interest of the estate in the property
 4-38 being sold.

4-39 (3) This section does not relieve the independent
 4-40 executor of any duty owing to a devisee or heir related directly or
 4-41 indirectly to the sale.

4-42 (c) No Limitations. This section does not limit the
 4-43 authority of an independent executor to take other actions without
 4-44 court supervision or approval with respect to estate assets that
 4-45 may take place in a supervised administration, for purposes and
 4-46 within the scope otherwise authorized by this code, including
 4-47 leases and borrowing money.

4-48 PART 3. CLAIMS; EXEMPTIONS AND ALLOWANCES

4-49 Sec. 177L. SETTING ASIDE EXEMPT PROPERTY AND ALLOWANCES.
 4-50 The independent executor shall set aside and deliver to those
 4-51 entitled exempt property and allowances for support, and allowances
 4-52 in lieu of exempt property, as prescribed in this code, to the same
 4-53 extent and result as if the independent executor's actions had been
 4-54 accomplished in, and under orders of, the court.

4-55 Sec. 177M. CLAIMS. (a) Duty of the Independent Executor.
 4-56 An independent executor, in the administration of an estate,
 4-57 independently of and without application to, or any action in or by
 4-58 the court:

4-59 (1) shall give the notices required under Sections 294
 4-60 and 295 of this code;

4-61 (2) may give the notice to an unsecured creditor with a
 4-62 claim for money permitted under Section 294(d) of this code and bar
 4-63 a claim under Subsection (e) of this section; and

4-64 (3) may approve or reject any claim, or take no action
 4-65 on a claim, and shall classify and pay claims approved or
 4-66 established by suit against the estate in the same order of
 4-67 priority, classification, and proration prescribed in this code.

4-68 (a-1) Statement in Notice of Claim. In order to be
 4-69 effective, the notice described by Subsection (a)(2) of this

5-1 section must include, in addition to the other information required
5-2 by Section 294(d) of this code, a statement that a claim may be
5-3 effectively presented only by one of the methods described in this
5-4 section.

5-5 (b) Secured Claims for Money. Within six months after the
5-6 date letters are granted or within four months after the date notice
5-7 is received under Section 295 of this code, whichever is later, a
5-8 creditor with a claim for money secured by real or personal property
5-9 of the estate must give notice to the independent executor of the
5-10 creditor's election to have the creditor's claim approved as a
5-11 matured secured claim to be paid in due course of administration.
5-12 In addition to such notice, such creditor whose claim is secured by
5-13 real property shall record a notice of such election in the deed
5-14 records of the county in which such real property is located. If no
5-15 election to be a matured secured creditor is made, or is made but
5-16 not within the required period, or is made within the required
5-17 period but the creditor has a lien against real property and fails
5-18 to record notice of the claim in the deed records as described above
5-19 within the required period, the claim shall be a preferred debt and
5-20 lien against the specific property securing the indebtedness and
5-21 shall be paid according to the terms of the contract that secured
5-22 the lien, and the claim may not be asserted against other assets of
5-23 the estate. The independent executor may pay the claim prior to
5-24 maturity if it is determined to be in the best interest of the
5-25 estate to do so.

5-26 (c) Matured Secured Claims. (1) A claim approved as a
5-27 matured secured claim under Subsection (b) of this section shall
5-28 remain secured by any lien or security interest against the
5-29 specific property securing its payment but subordinated to the
5-30 payment from the property of claims having a higher classification
5-31 under Section 322 of this code. However, the secured creditor:

5-32 (A) shall not be entitled to exercise any
5-33 remedies in a manner that prevents the payment of such higher
5-34 priority claims and allowances; and

5-35 (B) during the administration of the estate,
5-36 shall not be entitled to exercise any contractual collection
5-37 rights, including the power to foreclose, without either the prior
5-38 written approval of the independent executor or court approval.

5-39 (1-a) Nothing in Subdivision (1) of this subsection
5-40 shall be construed to suspend or otherwise prevent a creditor with a
5-41 matured secured claim from seeking judicial relief of any kind or
5-42 executing on any judgment against an independent executor. Except
5-43 with respect to real property, any third party acting in good faith
5-44 may obtain good title with respect to an estate asset acquired
5-45 through a secured creditor's extrajudicial collection rights,
5-46 without regard to whether such creditor had the right to collect or
5-47 whether the creditor acted improperly in exercising such rights
5-48 during an estate administration due to having elected matured
5-49 secured status.

5-50 (2) If a claim approved or established by suit as a
5-51 matured secured claim is secured by property passing to one or more
5-52 devisees in accordance with Section 71A of this code, the
5-53 independent executor shall collect from the devisees the amount of
5-54 the debt and pay that amount to the claimant or sell the property
5-55 and pay out of the sale proceeds the claim and associated expenses
5-56 of sale consistent with the provisions of Section 306(c-1) of this
5-57 code applicable in court supervised administrations.

5-58 (d) Preferred Debt and Lien Claims. During an independent
5-59 administration, a secured creditor whose claim is a preferred debt
5-60 and lien against property securing the indebtedness under
5-61 Subsection (b) of this section is free to exercise any and all
5-62 judicial or extrajudicial collection rights, including foreclosure
5-63 and execution; provided, however, that such creditor shall not have
5-64 the right to conduct a nonjudicial foreclosure sale within a period
5-65 of six months after letters are granted.

5-66 (e) Certain Unsecured Claims; Barring of Claims. An
5-67 unsecured creditor who has a claim for money against an estate and
5-68 who receives a notice under Section 294(d) of this code shall give
5-69 notice to the independent executor of the nature and amount of the

6-1 claim not later than the 120th day after the date on which the
 6-2 notice is received or the claim is barred.

6-3 (f) Notices Required by Creditors. Notice to the personal
 6-4 representative required by Subsections (b) and (e) of this section
 6-5 must be contained in:

6-6 (1) a written instrument that is hand-delivered with
 6-7 proof of receipt, or mailed by certified mail, return receipt
 6-8 requested with proof of receipt, to the independent executor or the
 6-9 executor's attorney;

6-10 (2) a pleading filed in a lawsuit with respect to the
 6-11 claim; or

6-12 (3) a written instrument or pleading filed in the
 6-13 court in which the administration of the estate is pending.

6-14 (f-1) Filing Requirements Applicable. Nothing in
 6-15 Subsection (f) of this section shall relieve a creditor who elects
 6-16 matured secured status from the filing requirements in Subsection
 6-17 (b) of this section, to the extent applicable.

6-18 (g) Statute of Limitations. Except as otherwise provided in
 6-19 Section 16.062, Civil Practice and Remedies Code, the running of
 6-20 the statute of limitations shall be tolled only by a written
 6-21 approval of a claim signed by an independent executor, a pleading
 6-22 filed in a suit pending at the time of the decedent's death, or a
 6-23 suit brought by the creditor against the independent executor. In
 6-24 particular, the presentation of a statement or claim, or a notice
 6-25 with respect to a claim, to an independent executor shall not toll
 6-26 the running of the statute of limitations with respect to that
 6-27 claim.

6-28 (h) Other Claim Procedures of Code Generally Do Not Apply.
 6-29 Except as otherwise provided in this section, the procedural
 6-30 provisions of this code governing creditor claims in supervised
 6-31 administrations do not apply in independent administrations. By way
 6-32 of example only and not of limitation:

6-33 (1) Section 313 of this code does not apply in
 6-34 independent administrations, and consequently a creditor's claim
 6-35 shall not be barred solely because the creditor failed to file a
 6-36 suit within 90 days after a claim has been rejected by an
 6-37 independent executor or with respect to which the independent
 6-38 executor takes no action; and

6-39 (2) Sections 306(f)-(k) of this code do not apply in
 6-40 independent administrations.

6-41 (i) Liability of Independent Executor. An independent
 6-42 executor, in the administration of an estate, may pay at any time
 6-43 and without personal liability a claim for money against the estate
 6-44 to the extent approved and classified by the personal
 6-45 representative if:

6-46 (1) the claim is not barred by limitations; and

6-47 (2) at the time of payment, the independent executor
 6-48 reasonably believes the estate will have sufficient assets to pay
 6-49 all claims against the estate.

6-50 Sec. 177N. ENFORCEMENT OF CLAIMS BY SUIT. Any person having
 6-51 a debt or claim against the estate may enforce the payment of the
 6-52 same by suit against the independent executor; and, when judgment
 6-53 is recovered against the independent executor, the execution shall
 6-54 run against the estate of the decedent in the possession of the
 6-55 independent executor that is subject to such debt. The independent
 6-56 executor shall not be required to plead to any suit brought against
 6-57 the executor for money until after six months after the date that an
 6-58 independent administration was created and the order appointing the
 6-59 executor was entered by the probate court.

6-60 Sec. 177O. REQUIRING HEIRS TO GIVE BOND. When an
 6-61 independent administration is created and the order appointing an
 6-62 independent executor is entered by the probate court, any person
 6-63 having a debt against such estate may, by written complaint filed in
 6-64 the probate court in which such order was entered, cause all
 6-65 distributees of the estate, heirs at law, and other persons
 6-66 entitled to any portion of such estate under the will, if any, to be
 6-67 cited by personal service to appear before such probate court and
 6-68 execute a bond for an amount equal to the amount of the creditor's
 6-69 claim or the full value of such estate, as shown by the inventory

7-1 and list of claims, whichever is the smaller, such bond to be
 7-2 payable to the judge, and the judge's successors, and to be approved
 7-3 by the judge, and conditioned that all obligors shall pay all debts
 7-4 that shall be established against such estate in the manner
 7-5 provided by law. On the return of the citation served, unless such
 7-6 person so entitled to any portion of the estate, or some of them, or
 7-7 some other person for them, shall execute such bond to the
 7-8 satisfaction of the probate court, such estate shall be
 7-9 administered and settled under the direction of the probate court
 7-10 as other estates are required to be settled. If the bond is
 7-11 executed and approved, the independent administration shall
 7-12 proceed. Creditors of the estate may sue on such bond, and shall be
 7-13 entitled to judgment on the bond for the amount of their debt, or
 7-14 they may have their action against those in possession of the
 7-15 estate.

7-16 PART 4. ACCOUNTINGS, SUCCESSORS, AND OTHER REMEDIES

7-17 Sec. 177P. ACCOUNTING. (a) Interested Person May Demand
 7-18 Accounting. At any time after the expiration of 15 months after the
 7-19 date that an independent administration was created and the order
 7-20 appointing an independent executor was entered by the probate
 7-21 court, any person interested in the estate may demand an accounting
 7-22 from the independent executor. The independent executor shall
 7-23 furnish to the person or persons making the demand an exhibit in
 7-24 writing, sworn and subscribed by the independent executor, setting
 7-25 forth in detail:

7-26 (1) the property belonging to the estate that has come
 7-27 into the executor's possession as executor;

7-28 (2) the disposition that has been made of such
 7-29 property;

7-30 (3) the debts that have been paid;

7-31 (4) the debts and expenses, if any, still owing by the
 7-32 estate;

7-33 (5) the property of the estate, if any, still
 7-34 remaining in the executor's possession;

7-35 (6) such other facts as may be necessary to a full and
 7-36 definite understanding of the exact condition of the estate; and

7-37 (7) such facts, if any, that show why the
 7-38 administration should not be closed and the estate distributed.

7-39 (a-1) Copy of Exhibit or Accounting. Any other interested
 7-40 person shall, on demand, be entitled to a copy of any exhibit or
 7-41 accounting that has been made by an independent executor in
 7-42 compliance with this section.

7-43 (b) Enforcement of Demand. Should the independent executor
 7-44 not comply with a demand for an accounting authorized by this
 7-45 section within 60 days after receipt of the demand, the person
 7-46 making the demand may compel compliance by an action in the probate
 7-47 court. After a hearing, the court shall enter an order requiring the
 7-48 accounting to be made at such time as it considers proper under the
 7-49 circumstances.

7-50 (c) Subsequent Demands. After an initial accounting has
 7-51 been given by an independent executor, any person interested in an
 7-52 estate may demand subsequent periodic accountings at intervals of
 7-53 not less than 12 months, and such subsequent demands may be enforced
 7-54 in the same manner as an initial demand.

7-55 (d) Remedies Cumulative. The right to an accounting
 7-56 accorded by this section is cumulative of any other remedies which
 7-57 persons interested in an estate may have against the independent
 7-58 executor of the estate.

7-59 Sec. 177Q. REQUIRING INDEPENDENT EXECUTOR TO GIVE BOND.
 7-60 When it has been provided by will, regularly probated, that an
 7-61 independent executor appointed by such will shall not be required
 7-62 to give bond for the management of the estate devised by such will,
 7-63 or the independent executor is not required to give bond because
 7-64 bond has been waived by court order as authorized under Section 177E
 7-65 of this code, then such independent executor may be required to give
 7-66 bond, on proper proceedings had for that purpose as in the case of
 7-67 personal representatives in a supervised administration, if it be
 7-68 made to appear at any time that such independent executor is
 7-69 mismanaging the property, or has betrayed or is about to betray the

8-1 independent executor's trust, or has in some other way become
 8-2 disqualified.

8-3 Sec. 177R. REMOVAL OF INDEPENDENT EXECUTOR. (a) The
 8-4 probate court, on its own motion or on motion of any interested
 8-5 person, after the independent executor has been cited by personal
 8-6 service to answer at a time and place fixed in the notice, may
 8-7 remove an independent executor when:

8-8 (1) the independent executor fails to return within 90
 8-9 days after qualification, unless such time is extended by order of
 8-10 the court, an inventory of the property of the estate and list of
 8-11 claims that have come to the independent executor's knowledge;

8-12 (2) sufficient grounds appear to support belief that
 8-13 the independent executor has misapplied or embezzled, or that the
 8-14 independent executor is about to misapply or embezzle, all or any
 8-15 part of the property committed to the independent executor's care;

8-16 (3) the independent executor fails to make an
 8-17 accounting which is required by law to be made;

8-18 (4) the independent executor fails to timely file the
 8-19 affidavit or certificate required by Section 128A of this code;

8-20 (5) the independent executor is proved to have been
 8-21 guilty of gross misconduct or gross mismanagement in the
 8-22 performance of the independent executor's duties; or

8-23 (6) the independent executor becomes an incapacitated
 8-24 person, or is sentenced to the penitentiary, or from any other cause
 8-25 becomes legally incapacitated from properly performing the
 8-26 independent executor's fiduciary duties.

8-27 (b) The order of removal shall state the cause of removal
 8-28 and shall direct by order the disposition of the assets remaining in
 8-29 the name or under the control of the removed executor. The order of
 8-30 removal shall require that letters issued to the removed executor
 8-31 shall be surrendered and that all letters shall be canceled of
 8-32 record. If an independent executor is removed by the court under
 8-33 this section, the court may, on application, appoint a successor
 8-34 independent executor as provided by Section 177T of this code.

8-35 (c) An independent executor who defends an action for the
 8-36 independent executor's removal in good faith, whether successful or
 8-37 not, shall be allowed out of the estate the independent executor's
 8-38 necessary expenses and disbursements, including reasonable
 8-39 attorney's fees, in the removal proceedings.

8-40 (d) Costs and expenses incurred by the party seeking removal
 8-41 that are incident to removal of an independent executor appointed
 8-42 without bond, including reasonable attorney's fees and expenses,
 8-43 may be paid out of the estate.

8-44 Sec. 177S. POWERS OF AN ADMINISTRATOR WHO SUCCEEDS AN
 8-45 INDEPENDENT EXECUTOR. (a) Grant of Powers by Court. Whenever a
 8-46 person has died, or shall die, testate, owning property in this
 8-47 state, and such person's will has been or shall be admitted to
 8-48 probate by the court, and such probated will names an independent
 8-49 executor or executors, or trustees acting in the capacity of
 8-50 independent executors, to execute the terms and provisions of said
 8-51 will, and such will grants to such independent executor, or
 8-52 executors, or trustees acting in the capacity of independent
 8-53 executors, the power to raise or borrow money and to mortgage, and
 8-54 such independent executor, or executors, or trustees, have died or
 8-55 shall die, resign, fail to qualify, or be removed from office,
 8-56 leaving unexecuted parts or portions of the will of the testator,
 8-57 and an administrator with the will annexed is appointed by the
 8-58 probate court, and an administrator's bond is filed and approved by
 8-59 the court, then in all such cases, the court may, in addition to the
 8-60 powers conferred on such administrator under other provisions of
 8-61 the laws of this state, authorize, direct, and empower such
 8-62 administrator to do and perform the acts and deeds, clothed with the
 8-63 rights, powers, authorities, and privileges, and subject to the
 8-64 limitations, set forth in the subsequent provisions of this
 8-65 section.

8-66 (b) Power to Borrow Money and Mortgage or Pledge Property.
 8-67 The court, on application, citation, and hearing, may, by its
 8-68 order, authorize, direct, and empower such administrator to raise
 8-69 or borrow such sums of money and incur such obligations and debts as

9-1 the court shall, in its said order, direct, and to renew and extend
9-2 same from time to time, as the court, on application and order,
9-3 shall provide; and, if authorized by the court's order, to secure
9-4 such loans, obligations, and debts, by pledge or mortgage on
9-5 property or assets of the estate, real, personal, or mixed, on such
9-6 terms and conditions, and for such duration of time, as the court
9-7 shall consider to be in the best interests of the estate, and by its
9-8 order shall prescribe; and all such loans, obligations, debts,
9-9 pledges, and mortgages shall be valid and enforceable against the
9-10 estate and against such administrator in the administrator's
9-11 official capacity.

9-12 (c) Powers Limited to Those Granted by the Will. The court
9-13 may order and authorize such administrator to have and exercise the
9-14 powers and privileges set forth in Subsection (a) or (b) of this
9-15 section only to the extent that same are granted to or possessed by
9-16 the independent executor, or executors, or trustees acting in the
9-17 capacity of independent executors, under the terms of the probated
9-18 will of such deceased person, and then only in such cases as it
9-19 appears, at the hearing of the application, that at the time of the
9-20 appointment of such administrator, there are outstanding and unpaid
9-21 obligations and debts of the estate, or of the independent
9-22 executor, or executors, or trustees, chargeable against the estate,
9-23 or unpaid expenses of administration, or when the court appointing
9-24 such administrator orders the business of such estate to be carried
9-25 on and it becomes necessary, from time to time, under orders of the
9-26 court, for such administrator to borrow money and incur obligations
9-27 and indebtedness in order to protect and preserve the estate.

9-28 (d) Powers Other Than Those Relating to Borrowing Money and
9-29 Mortgaging or Pledging Property. The court, in addition, may, on
9-30 application, citation, and hearing, order, authorize, and empower
9-31 such administrator to assume, exercise, and discharge, under the
9-32 orders and directions of said court, made from time to time, all or
9-33 such part of the rights, powers, and authorities vested in and
9-34 delegated to, or possessed by, the independent executor, or
9-35 executors, or trustees acting in the capacity of independent
9-36 executors, under the terms of the will of such deceased person, as
9-37 the court finds to be in the best interests of the estate and shall,
9-38 from time to time, order and direct.

9-39 (e) Application for Grant of Powers. The granting to such
9-40 administrator by the court of some, or all, of the powers and
9-41 authorities set forth in this section shall be on application filed
9-42 by such administrator with the county clerk, setting forth such
9-43 facts as, in the judgment of the administrator, require the
9-44 granting of the power or authority requested.

9-45 (f) Citation. On the filing of such application, the clerk
9-46 shall issue citation to all persons interested in the estate,
9-47 stating the nature of the application, and requiring such persons
9-48 to appear on the return day named in such citation and show cause
9-49 why such application should not be granted, should they choose to do
9-50 so. Such citation shall be served by posting.

9-51 (g) Hearing and Order. The court shall hear such
9-52 application and evidence on the application, on or after the return
9-53 day named in the citation, and, if satisfied a necessity exists and
9-54 that it would be in the best interests of the estate to grant said
9-55 application in whole or in part, the court shall so order;
9-56 otherwise, the court shall refuse said application.

9-57 Sec. 177T. COURT-APPOINTED SUCCESSOR INDEPENDENT EXECUTOR.

9-58 (a) If the will of a person who dies testate names an independent
9-59 executor who, having qualified, fails for any reason to continue to
9-60 serve, or is removed for cause by the court, and the will does not
9-61 name a successor independent executor or if each successor executor
9-62 named in the will fails for any reason to qualify as executor or
9-63 indicates by affidavit filed with the application for an order
9-64 continuing independent administration the successor executor's
9-65 inability or unwillingness to serve as successor independent
9-66 executor, all of the distributees of the decedent as of the filing
9-67 of the application for an order continuing independent
9-68 administration may apply to the probate court for the appointment
9-69 of a qualified person, firm, or corporation to serve as successor

10-1 independent executor. If the probate court finds that continued
10-2 administration of the estate is necessary, the probate court shall
10-3 enter an order continuing independent administration and
10-4 appointing the person, firm, or corporation designated in the
10-5 application as successor independent executor, unless the probate
10-6 court finds that it would not be in the best interests of the estate
10-7 to do so. Such successor shall serve with all of the powers and
10-8 privileges granted to the successor's predecessor independent
10-9 executor.

10-10 (b) If a distributee described in this section is an
10-11 incapacitated person, the guardian of the person of the distributee
10-12 may sign the application on behalf of the distributee. If the
10-13 probate court finds that either the continuing of independent
10-14 administration or the appointment of the person, firm, or
10-15 corporation designated in the application as successor independent
10-16 executor would not be in the best interest of the incapacitated
10-17 person, then, notwithstanding Subsection (a) of this section, the
10-18 probate court may not enter an order continuing independent
10-19 administration of the estate. If the distributee is an
10-20 incapacitated person and has no guardian of the person, the court
10-21 may appoint a guardian ad litem to make application on behalf of the
10-22 incapacitated person if the probate court considers such an
10-23 appointment necessary to protect the interest of such distributee.

10-24 (c) If a trust is created in the decedent's will, the person
10-25 or class of persons first eligible to receive the income from the
10-26 trust, determined as if the trust were to be in existence on the
10-27 date of the filing of the application for an order continuing
10-28 independent administration, shall, for the purposes of this
10-29 section, be considered to be the distributee or distributees on
10-30 behalf of such trust, and any other trust or trusts coming into
10-31 existence on the termination of such trust, and are authorized to
10-32 apply for an order continuing independent administration on behalf
10-33 of the trust without the consent or agreement of the trustee or any
10-34 other beneficiary of the trust, or the trustee or any beneficiary of
10-35 any other trust which may come into existence on the termination of
10-36 such trust.

10-37 (d) If a life estate is created either in the decedent's
10-38 will or by law, and if a life tenant is living at the time of the
10-39 filing of the application for an order continuing independent
10-40 administration, then the life tenant or life tenants, determined as
10-41 if the life estate were to commence on the date of the filing of the
10-42 application for an order continuing independent administration,
10-43 shall, for the purposes of this section, be considered to be the
10-44 distributee or distributees on behalf of the entire estate created,
10-45 and are authorized to apply for an order continuing independent
10-46 administration on behalf of the estate without the consent or
10-47 approval of any remainderman.

10-48 (e) If a decedent's will contains a provision that a
10-49 distributee must survive the decedent by a prescribed period of
10-50 time in order to take under the decedent's will, for the purposes of
10-51 determining who shall be the distributee under this section, it
10-52 shall be presumed that the distributees living at the time of the
10-53 filing of the application for an order continuing independent
10-54 administration of the decedent's estate survived the decedent for
10-55 the prescribed period.

10-56 (f) In the case of all decedents, for the purposes of
10-57 determining who shall be the distributees under this section, it
10-58 shall be presumed that no distributee living at the time the
10-59 application for an order continuing independent administration of
10-60 the decedent's estate is filed shall subsequently disclaim any
10-61 portion of such distributee's interest in the decedent's estate.

10-62 (g) If a distributee of a decedent's estate should die, and
10-63 if by virtue of such distributee's death such distributee's share of
10-64 the decedent's estate shall become payable to such distributee's
10-65 estate, then the deceased distributee's personal representative
10-66 may sign the application for an order continuing independent
10-67 administration of the decedent's estate under this section.

10-68 (h) If a successor independent executor is appointed under
10-69 this section, then, unless the probate court shall waive bond on

11-1 application for waiver, the successor independent executor shall be
 11-2 required to enter into bond payable to and to be approved by the
 11-3 judge and the judge's successors in a sum that is found by the judge
 11-4 to be adequate under all circumstances, or a bond with one surety in
 11-5 an amount that is found by the judge to be adequate under all
 11-6 circumstances, if the surety is an authorized corporate surety.

11-7 (i) Absent proof of fraud or collusion on the part of a
 11-8 judge, the judge may not be held civilly liable for the commission
 11-9 of misdeeds or the omission of any required act of any person, firm,
 11-10 or corporation designated as a successor independent executor under
 11-11 this section. Section 36 of this code does not apply to an
 11-12 appointment of a successor independent executor under this section.

11-13 PART 5. CLOSING AND DISTRIBUTIONS

11-14 Sec. 177U. ACCOUNTING AND DISTRIBUTION. (a) In addition to
 11-15 or in lieu of the right to an accounting provided by Section 177P of
 11-16 this code, at any time after the expiration of two years after the
 11-17 date that an independent administration was created and the order
 11-18 appointing an independent executor was entered, a person interested
 11-19 in the estate may petition the court for an accounting and
 11-20 distribution. The court may order an accounting to be made with the
 11-21 court by the independent executor at such time as the court
 11-22 considers proper. The accounting shall include the information that
 11-23 the court considers necessary to determine whether any part of the
 11-24 estate should be distributed.

11-25 (b) On receipt of the accounting and, after notice to the
 11-26 independent executor and a hearing, unless the court finds a
 11-27 continued necessity for administration of the estate, the court
 11-28 shall order its distribution by the independent executor to the
 11-29 distributees entitled to the property. If the court finds there is
 11-30 a continued necessity for administration of the estate, the court
 11-31 shall order the distribution of any portion of the estate that the
 11-32 court finds should not be subject to further administration by the
 11-33 independent executor. If any portion of the estate that is ordered
 11-34 to be distributed is incapable of distribution without prior
 11-35 partition or sale, the court shall order partition and
 11-36 distribution, or sale, in the manner provided for the partition and
 11-37 distribution of property incapable of division in supervised
 11-38 estates.

11-39 (c) If all the property in the estate is ordered distributed
 11-40 by the court and the estate is fully administered, the court may
 11-41 also order the independent executor to file a final account with the
 11-42 court and may enter an order closing the administration and
 11-43 terminating the power of the independent executor to act as
 11-44 executor.

11-45 Sec. 177V. RECEIPTS AND RELEASES FOR DISTRIBUTIONS BY
 11-46 INDEPENDENT EXECUTOR. (a) An independent executor may not be
 11-47 required to deliver tangible or intangible personal property to a
 11-48 distributee unless the independent executor shall receive, at or
 11-49 before the time of delivery of the property, a signed receipt or
 11-50 other proof of delivery of the property to the distributee.

11-51 (b) An independent executor may not require a waiver or
 11-52 release from the distributee as a condition of delivery of property
 11-53 to a distributee.

11-54 Sec. 177W. JUDICIAL DISCHARGE OF INDEPENDENT EXECUTOR. (a)
 11-55 After an estate has been administered and if there is no further
 11-56 need for an independent administration of the estate, the
 11-57 independent executor of the estate may file an action for
 11-58 declaratory judgment under Chapter 37, Civil Practice and Remedies
 11-59 Code, seeking to discharge the independent executor from any
 11-60 liability involving matters relating to the past administration of
 11-61 the estate that have been fully and fairly disclosed.

11-62 (b) On the filing of an action under this section, each
 11-63 beneficiary of the estate shall be personally served with citation,
 11-64 except for a beneficiary who has waived the issuance and service of
 11-65 citation.

11-66 (c) In a proceeding under this section, the court may
 11-67 require the independent executor to file a final account that
 11-68 includes any information the court considers necessary to
 11-69 adjudicate the independent executor's request for a discharge of

12-1 liability. The court may audit, settle, or approve a final account
 12-2 filed under this subsection.

12-3 (d) On or before filing an action under this section, the
 12-4 independent executor must distribute to the beneficiaries of the
 12-5 estate any of the remaining assets or property of the estate that
 12-6 remains in the independent executor's possession after all of the
 12-7 estate's debts have been paid, except for a reasonable reserve of
 12-8 assets that the independent executor may retain in a fiduciary
 12-9 capacity pending court approval of the final account. The court may
 12-10 review the amount of assets on reserve and may order the independent
 12-11 executor to make further distributions under this section.

12-12 (e) Except as ordered by the court, the independent executor
 12-13 is entitled to pay from the estate legal fees, expenses, or other
 12-14 costs incurred in relation to a proceeding for judicial discharge
 12-15 filed under this section. The independent executor shall be
 12-16 personally liable to refund any amount of such fees, expenses, or
 12-17 other costs not approved by the court as a proper charge against the
 12-18 estate.

12-19 Sec. 177X. CLOSING INDEPENDENT ADMINISTRATION BY CLOSING
 12-20 REPORT OR NOTICE OF CLOSING ESTATE. When all of the debts known to
 12-21 exist against the estate have been paid, or when they have been paid
 12-22 so far as the assets in the independent executor's possession will
 12-23 permit, when there is no pending litigation, and when the
 12-24 independent executor has distributed to the distributees entitled
 12-25 to the estate all assets of the estate, if any, remaining after
 12-26 payment of debts, the independent executor may file with the court a
 12-27 closing report or a notice of closing of the estate.

12-28 (a) Closing Report. An independent executor may file a
 12-29 closing report verified by affidavit that:

12-30 (1) shows:

12-31 (A) the property of the estate that came into the
 12-32 independent executor's possession;

12-33 (B) the debts that have been paid;

12-34 (C) the debts, if any, still owing by the estate;

12-35 (D) the property of the estate, if any, remaining
 12-36 on hand after payment of debts; and

12-37 (E) the names and addresses of the distributees
 12-38 to whom the property of the estate, if any, remaining on hand after
 12-39 payment of debts has been distributed; and

12-40 (2) includes signed receipts or other proof of
 12-41 delivery of property to the distributees named in the closing
 12-42 report if the closing report reflects that there was property
 12-43 remaining on hand after payment of debts.

12-44 (b) Notice of Closing Estate. (1) An independent executor
 12-45 is not required to but may file a notice of closing estate verified
 12-46 by affidavit that states:

12-47 (A) that all debts known to exist against the
 12-48 estate have been paid or that the debts have been paid so far as the
 12-49 assets in the possession of the independent executor will permit;

12-50 (B) that all remaining assets of the estate, if
 12-51 any, have been distributed; and

12-52 (C) the names and addresses of the distributees
 12-53 to whom the property of the estate, if any, remaining on hand after
 12-54 payment of debts has been distributed.

12-55 (2) Before filing the notice, the independent executor
 12-56 shall provide all distributees of the estate with a copy of the
 12-57 notice of closing estate. The notice of closing estate filed by the
 12-58 independent executor shall include signed receipts or other proof
 12-59 that all distributees have received a copy of the notice of closing
 12-60 estate.

12-61 (c) Effect of Filing Closing Report or Notice of Closing
 12-62 Estate. (1) The independent administration of an estate shall be
 12-63 considered closed 30 days after the filing of a closing report or
 12-64 notice of closing estate unless an interested person files an
 12-65 objection within the 30-day period. If an interested person files
 12-66 an objection, the independent administration of the estate shall be
 12-67 closed when the objection has been disposed of or the court signs an
 12-68 order closing the estate.

12-69 (2) The closing of an independent administration by

13-1 filing of a closing report or notice of closing estate terminates
 13-2 the power and authority of the independent executor, but does not
 13-3 relieve the independent executor from liability for any
 13-4 mismanagement of the estate or from liability for any false
 13-5 statements contained in the report or notice.

13-6 (3) When a closing report or notice of closing estate
 13-7 has been filed, persons dealing with properties of the estate, or
 13-8 with claims against the estate, shall deal directly with the
 13-9 distributees of the estate; and the acts of such distributees with
 13-10 respect to such properties or claims shall in all ways be valid and
 13-11 binding as regards the persons with whom they deal, notwithstanding
 13-12 any false statements made by the independent executor in such
 13-13 report or notice.

13-14 (4) If the independent executor is required to give
 13-15 bond, the independent executor's filing of the closing report and
 13-16 proof of delivery, if required, automatically releases the sureties
 13-17 on the bond from all liability for the future acts of the principal.
 13-18 The filing of a notice of closing estate does not release the
 13-19 sureties on the bond of an independent executor.

13-20 (5) An independent executor's closing report or notice
 13-21 of closing estate shall constitute sufficient legal authority to
 13-22 all persons owing any money, having custody of any property, or
 13-23 acting as registrar or transfer agent or trustee of any evidence of
 13-24 interest, indebtedness, property, or right that belongs to the
 13-25 estate, for payment or transfer without additional administration
 13-26 to the distributees described in the will as entitled to receive the
 13-27 particular asset or who as heirs at law are entitled to receive the
 13-28 asset. The distributees described in the will as entitled to
 13-29 receive the particular asset or the heirs at law entitled to receive
 13-30 the asset may enforce their right to the payment or transfer by
 13-31 suit.

13-32 Sec. 177Y. PARTITION AND DISTRIBUTION OR SALE OF PROPERTY
 13-33 INCAPABLE OF DIVISION. If the will does not distribute the entire
 13-34 estate of the testator or provide a means for partition of the
 13-35 estate, or if no will was probated, the independent executor may,
 13-36 but may not be required to, petition the probate court for either a
 13-37 partition and distribution of the estate or an order of sale of any
 13-38 portion of the estate alleged by the independent executor and found
 13-39 by the court to be incapable of a fair and equal partition and
 13-40 distribution, or both. The estate or portion of the estate shall
 13-41 either be partitioned and distributed or sold, or both, in the
 13-42 manner provided for the partition and distribution of property and
 13-43 the sale of property incapable of division in supervised estates.

13-44 Sec. 177Z. CLOSING INDEPENDENT ADMINISTRATION ON
 13-45 APPLICATION BY DISTRIBUTE. (a) At any time after an estate has
 13-46 been fully administered and there is no further need for an
 13-47 independent administration of such estate, any distributee may file
 13-48 an application to close the administration; and, after citation on
 13-49 the independent executor, and on hearing, the court may enter an
 13-50 order:

13-51 (1) requiring the independent executor to file a
 13-52 closing report meeting the requirements of Section 177X of this
 13-53 code;

13-54 (2) closing the administration;

13-55 (3) terminating the power of the independent executor
 13-56 to act as such; and

13-57 (4) releasing the sureties on any bond the independent
 13-58 executor was required to give from all liability for the future acts
 13-59 of the principal.

13-60 (b) The order of the court closing the independent
 13-61 administration shall constitute sufficient legal authority to all
 13-62 persons owing any money, having custody of any property, or acting
 13-63 as registrar or transfer agent or trustee of any evidence of
 13-64 interest, indebtedness, property, or right that belongs to the
 13-65 estate, for payment or transfer without additional administration
 13-66 to the distributees described in the will as entitled to receive the
 13-67 particular asset or who as heirs at law are entitled to receive the
 13-68 asset. The distributees described in the will as entitled to
 13-69 receive the particular asset or the heirs at law entitled to receive

14-1 the asset may enforce their right to the payment or transfer by
14-2 suit.

14-3 Sec. 177AA. ISSUANCE OF LETTERS. At any time before the
14-4 authority of an independent executor has been terminated in the
14-5 manner set forth in this chapter, the clerk shall issue such number
14-6 of letters testamentary as the independent executor shall request.

14-7 Sec. 177BB. RIGHTS AND REMEDIES CUMULATIVE. The rights and
14-8 remedies conferred by this part are cumulative of other rights and
14-9 remedies to which a person interested in the estate may be entitled
14-10 under law.

14-11 Sec. 177CC. CLOSING PROCEDURES NOT REQUIRED. An independent
14-12 executor is not required to close the independent administration of
14-13 an estate under Section 177W or 177X of this code.

14-14 SECTION 1.02. Section 3(q), Texas Probate Code, is amended
14-15 to read as follows:

14-16 (q) "Independent executor" means the personal
14-17 representative of an estate under independent administration as
14-18 provided in Chapter VI-1 [Section 145] of this Code. The term
14-19 "independent executor" includes the term "independent
14-20 administrator."

14-21 SECTION 1.03. Section 5A(b), Texas Probate Code, is amended
14-22 to read as follows:

14-23 (b) In proceedings in the statutory probate courts, the
14-24 phrases "appertaining to estates" and "incident to an estate" in
14-25 this Code include the probate of wills, the issuance of letters
14-26 testamentary and of administration, and the determination of
14-27 heirship, and also include, but are not limited to, all claims by or
14-28 against an estate, all actions for trial of title to land and for
14-29 the enforcement of liens thereon, all actions for trial of the right
14-30 of property, all actions to construe wills, the interpretation and
14-31 administration of testamentary trusts and the applying of
14-32 constructive trusts, and generally all matters relating to the
14-33 collection, settlement, partition, and distribution of estates of
14-34 deceased persons. All statutory probate courts may, in the
14-35 exercise of their jurisdiction, notwithstanding any other
14-36 provisions of this Code, hear all suits, actions, and applications
14-37 filed against or on behalf of any heirship proceeding or decedent's
14-38 estate, including estates administered by an independent executor;
14-39 all such suits, actions, and applications are appertaining to and
14-40 incident to an estate. This subsection shall be construed in
14-41 conjunction with and in harmony with Chapter VI-1 of this Code
14-42 [Section 145] and all other sections of this Code dealing with
14-43 independent executors, but shall not be construed so as to increase
14-44 permissible judicial control over independent executors. Except
14-45 for situations in which the jurisdiction of a statutory probate
14-46 court is concurrent with that of a district court as provided by
14-47 Section 5(e) of this Code or any other court, any cause of action
14-48 appertaining to estates or incident to an estate shall be brought in
14-49 a statutory probate court.

14-50 SECTION 1.04. Section 5C(a), Texas Probate Code, is amended
14-51 to read as follows:

14-52 (a) This section applies only to a decedent's estate that:
14-53 (1) is being administered in a pending probate
14-54 proceeding;

14-55 (2) owns or claims an interest in property against
14-56 which a taxing unit has imposed ad valorem taxes that are
14-57 delinquent; and

14-58 (3) is not being administered as an independent
14-59 administration under Chapter VI-1 [Section 145] of this code.

14-60 SECTION 1.05. Section 110, Texas Probate Code, is amended
14-61 to read as follows:

14-62 Sec. 110. REQUIREMENTS FOR EMERGENCY INTERVENTION. An
14-63 applicant may file an emergency application with the court under
14-64 Section 108 of this code only if an application has not been filed
14-65 and is not pending under Section 81, 82, or 137 of this code~~[7]~~ or
14-66 Part 1, Chapter VI-1 [145] of this code and the applicant:

14-67 (1) needs to obtain funds for the funeral and burial of
14-68 the decedent; or

14-69 (2) needs to gain access to rental accommodations in

15-1 which the decedent's personal property is located and the applicant
15-2 has been denied access to those accommodations.

15-3 SECTION 1.06. Section 241(a), Texas Probate Code, is
15-4 amended to read as follows:

15-5 (a) Executors, administrators, and temporary
15-6 administrators shall be entitled to receive a commission of five
15-7 per cent (5%) on all sums they may actually receive in cash, and the
15-8 same per cent on all sums they may actually pay out in cash, in the
15-9 administration of the estate on a finding by the court that the
15-10 executor or administrator has taken care of and managed the estate
15-11 in compliance with the standards of this code; provided, no
15-12 commission shall be allowed for receiving funds belonging to the
15-13 testator or intestate which were on hand or were held for the
15-14 testator or intestate at the time of his death in a financial
15-15 institution or a brokerage firm, including cash or a cash
15-16 equivalent held in a checking account, savings account, certificate
15-17 of deposit, or money market account; nor for collecting the
15-18 proceeds of any life insurance policy; nor for paying out cash to
15-19 the heirs or legatees as such; provided, further, however, that in
15-20 no event shall the executor or administrator be entitled in the
15-21 aggregate to more than five per cent (5%) of the gross fair market
15-22 value of the estate subject to administration. If the executor or
15-23 administrator manages a farm, ranch, factory, or other business of
15-24 the estate, or if the compensation as calculated above is
15-25 unreasonably low, the court may allow him reasonable compensation
15-26 for his services, including unusual effort to collect funds or life
15-27 insurance. For this purpose, the county court shall have
15-28 jurisdiction to receive, consider, and act on applications from
15-29 independent executors. The court may, on application of an
15-30 interested person or on its own motion, deny a commission allowed by
15-31 this subsection in whole or in part if:

15-32 (1) the court finds that the executor or administrator
15-33 has not taken care of and managed estate property prudently; or

15-34 (2) the executor or administrator has been removed
15-35 under Section ~~[149C or]~~ 222 of this code or Part 4, Chapter VI-1 of
15-36 this code.

15-37 SECTION 1.07. Notwithstanding the transfer of Sections 145,
15-38 146, 147, 148, 149, 149A, 149B, 149C, 149D, 149E, 149F, 149G, 150,
15-39 151, 152, 153, 154, and 154A, Texas Probate Code, to the Estates and
15-40 Guardianships Code, as adopted by H.B. No. 2502 or S.B. No. 2071,
15-41 Acts of the 81st Legislature, Regular Session, 2009, by one of those
15-42 Acts, Sections 145, 146, 147, 148, 149, 149A, 149B, 149C, 149D,
15-43 149E, 149F, 149G, 150, 151, 152, 153, 154, and 154A, Texas Probate
15-44 Code, are repealed.

15-45 SECTION 1.08. The changes in law made by this article apply
15-46 only to the estate of a decedent who dies on or after the effective
15-47 date of this Act. The estate of a decedent who dies before the
15-48 effective date of this Act is governed by the law in effect on the
15-49 date of the decedent's death, and the former law is continued in
15-50 effect for that purpose.

15-51 ARTICLE 2. INDEPENDENT ADMINISTRATION: ESTATES AND GUARDIANSHIPS
15-52 CODE

15-53 SECTION 2.01. Effective January 1, 2014, Subtitle I, Title
15-54 2, Estates and Guardianships Code, as adopted by H.B. 2502 or S.B.
15-55 2071, Acts of the 81st Legislature, Regular Session, 2009, is
15-56 amended by adding Chapters 401, 402, 403, 404, and 405 to read as
15-57 follows:

15-58 CHAPTER 401. CREATION

15-59 Sec. 401.001. EXPRESSION OF TESTATOR'S INTENT IN WILL. (a)
15-60 Any person capable of making a will may provide in the person's will
15-61 that no other action shall be had in the probate court in relation
15-62 to the settlement of the person's estate than the probating and
15-63 recording of the will and the return of an inventory, appraisement,
15-64 and list of claims of the person's estate.

15-65 (b) Any person capable of making a will may provide in the
15-66 person's will that no independent administration of his or her
15-67 estate may be allowed. In such case the person's estate, if
15-68 administered, shall be administered and settled under the direction
15-69 of the probate court as other estates are required to be settled and

16-1 not as an independent administration.

16-2 Sec. 401.002. CREATION IN TESTATE ESTATE BY AGREEMENT. (a)
 16-3 Except as provided in Section 401.001(b), if a decedent's will
 16-4 names an executor but the will does not provide for independent
 16-5 administration as provided in Section 401.001(a), all of the
 16-6 distributees of the decedent may agree on the advisability of
 16-7 having an independent administration and collectively designate in
 16-8 the application for probate of the decedent's will the executor
 16-9 named in the will to serve as independent executor and request in
 16-10 the application that no other action shall be had in the probate
 16-11 court in relation to the settlement of the decedent's estate other
 16-12 than the probating and recording of the decedent's will and the
 16-13 return of an inventory, appraisement, and list of claims of the
 16-14 decedent's estate. In such case the probate court shall enter an
 16-15 order granting independent administration and appointing the
 16-16 person, firm, or corporation designated in the application as
 16-17 independent executor, unless the court finds that it would not be in
 16-18 the best interest of the estate to do so.

16-19 (b) Except as provided in Section 401.001(b), in situations
 16-20 where no executor is named in the decedent's will, or in situations
 16-21 where each executor named in the will is deceased or is disqualified
 16-22 to serve as executor or indicates by affidavit filed with the
 16-23 application for administration of the decedent's estate the
 16-24 executor's inability or unwillingness to serve as executor, all of
 16-25 the distributees of the decedent may agree on the advisability of
 16-26 having an independent administration and collectively designate in
 16-27 the application for probate of the decedent's will a qualified
 16-28 person, firm, or corporation to serve as independent administrator
 16-29 and request in the application that no other action shall be had in
 16-30 the probate court in relation to the settlement of the decedent's
 16-31 estate other than the probating and recording of the decedent's
 16-32 will and the return of an inventory, appraisement, and list of
 16-33 claims of the decedent's estate. In such case the probate court
 16-34 shall enter an order granting independent administration and
 16-35 appointing the person, firm, or corporation designated in the
 16-36 application as independent administrator, unless the court finds
 16-37 that it would not be in the best interest of the estate to do so.

16-38 Sec. 401.003. CREATION IN INTESTATE ESTATE BY AGREEMENT.
 16-39 (a) All of the distributees of a decedent dying intestate may agree
 16-40 on the advisability of having an independent administration and
 16-41 collectively designate in the application for administration of the
 16-42 decedent's estate a qualified person, firm, or corporation to serve
 16-43 as independent administrator and request in the application that no
 16-44 other action shall be had in the probate court in relation to the
 16-45 settlement of the decedent's estate other than the return of an
 16-46 inventory, appraisement, and list of claims of the decedent's
 16-47 estate. In such case the probate court shall enter an order
 16-48 granting independent administration and appointing the person,
 16-49 firm, or corporation designated in the application as independent
 16-50 administrator, unless the court finds that it would not be in the
 16-51 best interest of the estate to do so.

16-52 (b) The court shall not appoint an independent
 16-53 administrator to serve in an intestate administration unless and
 16-54 until the parties seeking appointment of the independent
 16-55 administrator have been determined, through a proceeding to declare
 16-56 heirship under Chapter 202, to constitute all of the decedent's
 16-57 heirs.

16-58 Sec. 401.004. MEANS OF ESTABLISHING DISTRIBUTEES CONSENT.
 16-59 (a) This section applies to the creation of an independent
 16-60 administration under Section 401.002 or 401.003.

16-61 (b) All distributees shall be served with citation and
 16-62 notice of the application for independent administration unless the
 16-63 distributee waives the issuance or service of citation or enters an
 16-64 appearance in court.

16-65 (c) If a distributee is an incapacitated person, the
 16-66 guardian of the person of the distributee may sign the application
 16-67 on behalf of the distributee. If the probate court finds that
 16-68 either the granting of independent administration or the
 16-69 appointment of the person, firm, or corporation designated in the

17-1 application as independent executor would not be in the best
17-2 interest of the incapacitated person, then, notwithstanding
17-3 anything to the contrary in Section 401.002 or 401.003, the court
17-4 shall not enter an order granting independent administration of the
17-5 estate. If a distributee who is an incapacitated person has no
17-6 guardian of the person, the probate court may appoint a guardian ad
17-7 litem to make application on behalf of the incapacitated person if
17-8 the court considers such an appointment necessary to protect the
17-9 interest of the distributees. Alternatively, if the distributee who
17-10 is an incapacitated person is a minor and has no guardian of the
17-11 person, the natural guardian or guardians of such minor may consent
17-12 on behalf of such incapacitated person if there is no conflict of
17-13 interest between the minor and such natural guardian or guardians.

17-14 (d) If a trust is created in the decedent's will, the person
17-15 or class of persons first eligible to receive the income from the
17-16 trust, when determined as if the trust were to be in existence on
17-17 the date of the decedent's death, shall, for the purposes of Section
17-18 401.002, be considered to be the distributee or distributees on
17-19 behalf of such trust, and any other trust or trusts coming into
17-20 existence on the termination of such trust, and are authorized to
17-21 apply for independent administration on behalf of the trusts
17-22 without the consent or agreement of the trustee or any other
17-23 beneficiary of the trust, or the trustee or any beneficiary of any
17-24 other trust which may come into existence on the termination of such
17-25 trust. If a person who is a trust beneficiary and who is considered
17-26 to be a distributee under this subsection is an incapacitated
17-27 person, then such trustee or cotrustee may file the application or
17-28 give the consent, provided that such trustee or cotrustee is not the
17-29 person proposed to serve as the independent executor.

17-30 (e) If a life estate is created either in the decedent's
17-31 will or by law, the life tenant or life tenants, when determined as
17-32 if the life estate were to commence on the date of the decedent's
17-33 death, shall, for the purposes of Section 401.002 or 401.003, be
17-34 considered to be the distributee or distributees on behalf of the
17-35 entire estate created, and are authorized to apply for independent
17-36 administration on behalf of the estate without the consent or
17-37 approval of any remainderman.

17-38 (f) If a decedent's will contains a provision that a
17-39 distributee must survive the decedent by a prescribed period of
17-40 time in order to take under the decedent's will, then, for the
17-41 purposes of determining who shall be the distributee under Section
17-42 401.002 and under Subsection (c), it shall be presumed that the
17-43 distributees living at the time of the filing of the application for
17-44 probate of the decedent's will survived the decedent by the
17-45 prescribed period.

17-46 (g) In the case of all decedents, whether dying testate or
17-47 intestate, for the purposes of determining who shall be the
17-48 distributees under Section 401.002 or 401.003 and under Subsection
17-49 (c), it shall be presumed that no distributee living at the time the
17-50 application for independent administration is filed shall
17-51 subsequently disclaim any portion of such distributee's interest in
17-52 the decedent's estate.

17-53 (h) If a distributee of a decedent's estate should die and
17-54 if by virtue of such distributee's death such distributee's share of
17-55 the decedent's estate shall become payable to such distributee's
17-56 estate, then the deceased distributee's personal representative
17-57 may sign the application for independent administration of the
17-58 decedent's estate under Section 401.002 or 401.003 and under
17-59 Subsection (c).

17-60 Sec. 401.005. BOND; WAIVER OF BOND. If an independent
17-61 administration of a decedent's estate is created under Section
17-62 401.002 or 401.003, then, unless the probate court waives bond on
17-63 application for waiver, the independent executor shall be required
17-64 to enter into bond payable to and to be approved by the judge and the
17-65 judge's successors in a sum that is found by the judge to be
17-66 adequate under all circumstances, or a bond with one surety in a sum
17-67 that is found by the judge to be adequate under all circumstances,
17-68 if the surety is an authorized corporate surety. This section does
17-69 not repeal any other section of this title.

18-1 Sec. 401.006. GRANTING POWER OF SALE BY AGREEMENT. In a
 18-2 situation in which a decedent does not have a will or the will does
 18-3 not contain or insufficiently contains language authorizing the
 18-4 personal representative to sell real property, the court may
 18-5 include in an order appointing an independent executor under
 18-6 Section 401.002 or 401.003 such general or specific authority
 18-7 regarding the power of the independent executor to sell real
 18-8 property as may be consented to by the beneficiaries who are to
 18-9 receive any such real property in their consents to the independent
 18-10 administration. The independent executor, in such event, may sell
 18-11 the real property under the authority granted in the court order
 18-12 without the further consent of those beneficiaries.

18-13 Sec. 401.007. NO LIABILITY OF JUDGE. Absent proof of fraud
 18-14 or collusion on the part of a judge, no judge may be held civilly
 18-15 liable for the commission of misdeeds or the omission of any
 18-16 required act of any person, firm, or corporation designated as an
 18-17 independent executor under Section 401.002 or 401.003. Section
 18-18 351.354 does not apply to the appointment of an independent
 18-19 executor under Section 401.002 or 401.003.

18-20 Sec. 401.008. PERSON DECLINING TO SERVE. A person who
 18-21 declines to serve or resigns as independent executor of a
 18-22 decedent's estate may be appointed an executor or administrator of
 18-23 the estate if the estate will be administered and settled under the
 18-24 direction of the court.

18-25 CHAPTER 402. ADMINISTRATION

18-26 Sec. 402.001. GENERAL SCOPE AND EXERCISE OF POWERS. When an
 18-27 independent administration has been created, and the order
 18-28 appointing an independent executor has been entered by the probate
 18-29 court, and the inventory, appraisal, and list of claims has been
 18-30 filed by the independent executor and approved by the court, as long
 18-31 as the estate is represented by an independent executor, further
 18-32 action of any nature shall not be had in the probate court except
 18-33 where this title specifically and explicitly provides for some
 18-34 action in such court.

18-35 Sec. 402.002. INDEPENDENT EXECUTORS MAY ACT WITHOUT COURT
 18-36 APPROVAL. Unless this title specifically provides otherwise, any
 18-37 action that a personal representative subject to court supervision
 18-38 may do with or without a court order may be taken by an independent
 18-39 executor without a court order. The other provisions of this
 18-40 subtitle are designed to provide additional guidance regarding
 18-41 independent administrations in specified situations, and are not
 18-42 designed to limit by omission or otherwise the application of the
 18-43 general principles set forth in this chapter.

18-44 Sec. 402.003. POWER OF SALE. (a) General. (1) An
 18-45 independent executor has the power of sale set forth in the will, if
 18-46 applicable, exercisable without court approval as otherwise
 18-47 provided for independent administrations.

18-48 (2) Unless limited by the terms of a will, an
 18-49 independent executor has, in addition to any power of sale given in
 18-50 the will, the same power of sale for the same purposes as personal
 18-51 representatives have in a supervised administration, but without
 18-52 the requirement of court approval. The procedural requirements
 18-53 applicable to a supervised administration do not apply.

18-54 (b) Protection of Person Purchasing Estate Property. (1) A
 18-55 person who is not a devisee or heir is not required to inquire into
 18-56 the independent executor's power of sale or the propriety of the
 18-57 exercise of the power of sale if the person deals with the
 18-58 independent executor in good faith and:

18-59 (A) a power of sale is granted to the independent
 18-60 executor in the will or in the court order appointing the
 18-61 independent executor; or

18-62 (B) the independent executor provides an
 18-63 affidavit, sworn to under oath and recorded in the deed records of
 18-64 the county where the property is located, that the sale is necessary
 18-65 or advisable for any of the purposes described in Section
 18-66 356.251(1).

18-67 (2) As to acts undertaken in good faith reliance, the
 18-68 affidavit executed by the independent executor and described by
 18-69 Subsection (b)(1)(B) is conclusive proof, as between a purchaser of

19-1 property from an estate, and the personal representative of an
 19-2 estate or the heirs and distributees of the estate, with respect to
 19-3 the authority of the independent executor to sell the property. The
 19-4 signature or joinder of any person who is a devisee or heir and who
 19-5 has an interest in the property being sold as described in this
 19-6 section is not necessary for the purchaser to obtain all right,
 19-7 title, and interest of the estate in the property being sold.

19-8 (3) This section does not relieve the independent
 19-9 executor of any duty owing to a devisee or heir related directly or
 19-10 indirectly to the sale.

19-11 (c) No Limitations. This section does not limit the
 19-12 authority of an independent executor to take other actions without
 19-13 court supervision or approval with respect to estate assets that
 19-14 may take place in a supervised administration, for purposes and
 19-15 within the scope otherwise authorized by this title, including
 19-16 leases and borrowing money.

19-17 CHAPTER 403. CLAIMS; EXEMPTIONS AND ALLOWANCES

19-18 Sec. 403.001. SETTING ASIDE EXEMPT PROPERTY AND ALLOWANCES.

19-19 The independent executor shall set aside and deliver to those
 19-20 entitled exempt property and allowances for support, and allowances
 19-21 in lieu of exempt property, as prescribed in this title, to the same
 19-22 extent and result as if the independent executor's actions had been
 19-23 accomplished in, and under orders of, the court.

19-24 Sec. 403.002. CLAIMS. (a) Duty of the Independent
 19-25 Executor. An independent executor, in the administration of an
 19-26 estate, independently of and without application to, or any action
 19-27 in or by the court:

19-28 (1) shall give the notices required under Sections
 19-29 308.051, 308.052, 308.053, and 308.054;

19-30 (2) may give the notice to an unsecured creditor with a
 19-31 claim for money permitted under Section 308.054 and bar a claim
 19-32 under Subsection (e); and

19-33 (3) may approve or reject any claim, or take no action
 19-34 on a claim, and shall classify and pay claims approved or
 19-35 established by suit against the estate in the same order of
 19-36 priority, classification, and proration prescribed in this title.

19-37 (a-1) Statement in Notice of Claim. In order to be
 19-38 effective, the notice described by Subsection (a)(2) must include,
 19-39 in addition to the other information required by Section 308.054, a
 19-40 statement that a claim may be effectively presented only by one of
 19-41 the methods described in this section.

19-42 (b) Secured Claims for Money. Within six months after the
 19-43 date letters are granted or within four months after the date notice
 19-44 is received under Section 308.053, whichever is later, a creditor
 19-45 with a claim for money secured by real or personal property of the
 19-46 estate must give notice to the independent executor of the
 19-47 creditor's election to have the creditor's claim approved as a
 19-48 matured secured claim to be paid in due course of administration.
 19-49 In addition to such notice, such creditor whose claim is secured by
 19-50 real property shall record a notice of such election in the deed
 19-51 records of the county in which such real property is located. If no
 19-52 election to be a matured secured creditor is made, or is made but
 19-53 not within the required period, or is made within the required
 19-54 period but the creditor has a lien against real property and fails
 19-55 to record notice of the claim in the deed records as described above
 19-56 within the required period, the claim shall be a preferred debt and
 19-57 lien against the specific property securing the indebtedness and
 19-58 shall be paid according to the terms of the contract that secured
 19-59 the lien, and the claim may not be asserted against other assets of
 19-60 the estate. The independent executor may pay the claim prior to
 19-61 maturity if it is determined to be in the best interest of the
 19-62 estate to do so.

19-63 (c) Matured Secured Claims. (1) A claim approved as a
 19-64 matured secured claim under Subsection (b) shall remain secured by
 19-65 any lien or security interest against the specific property
 19-66 securing its payment but subordinated to the payment from the
 19-67 property of claims having a higher classification under Section
 19-68 355.102. However, the secured creditor:

19-69 (A) shall not be entitled to exercise any

20-1 remedies in a manner that prevents the payment of such higher
20-2 priority claims and allowances; and

20-3 (B) during the administration of the estate,
20-4 shall not be entitled to exercise any contractual collection
20-5 rights, including the power to foreclose, without either the prior
20-6 written approval of the independent executor or court approval.

20-7 (1-a) Nothing in Subdivision (1) shall be construed to
20-8 suspend or otherwise prevent a creditor with a matured secured
20-9 claim from seeking judicial relief of any kind or executing on any
20-10 judgment against an independent executor. Except with respect to
20-11 real property, any third party acting in good faith may obtain good
20-12 title with respect to an estate asset acquired through a secured
20-13 creditor's extrajudicial collection rights, without regard to
20-14 whether such creditor had the right to collect or whether the
20-15 creditor acted improperly in exercising such rights during an
20-16 estate administration due to having elected matured secured status.

20-17 (2) If a claim approved or established by suit as a
20-18 matured secured claim is secured by property passing to one or more
20-19 devisees in accordance with Subchapter G, Chapter 255, the
20-20 independent executor shall collect from the devisees the amount of
20-21 the debt and pay that amount to the claimant or sell the property
20-22 and pay out of the sale proceeds the claim and associated expenses
20-23 of sale consistent with the provisions of Sections 355.153(b), (c),
20-24 (d), and (e) applicable in court supervised administrations.

20-25 (d) Preferred Debt and Lien Claims. During an independent
20-26 administration, a secured creditor whose claim is a preferred debt
20-27 and lien against property securing the indebtedness under
20-28 Subsection (b) is free to exercise any and all judicial or
20-29 extrajudicial collection rights, including foreclosure and
20-30 execution; provided, however, that such creditor shall not have the
20-31 right to conduct a nonjudicial foreclosure sale within a period of
20-32 six months after letters are granted.

20-33 (e) Certain Unsecured Claims; Barring of Claims. An
20-34 unsecured creditor who has a claim for money against an estate and
20-35 who receives a notice under Section 308.054 shall give notice to the
20-36 independent executor of the nature and amount of the claim not later
20-37 than the 120th day after the date on which the notice is received or
20-38 the claim is barred.

20-39 (f) Notices Required by Creditors. Notice to the personal
20-40 representative required by Subsections (b) and (e) must be
20-41 contained in:

20-42 (1) a written instrument that is hand-delivered with
20-43 proof of receipt, or mailed by certified mail, return receipt
20-44 requested with proof of receipt, to the independent executor or the
20-45 executor's attorney;

20-46 (2) a pleading filed in a lawsuit with respect to the
20-47 claim; or

20-48 (3) a written instrument or pleading filed in the
20-49 court in which the administration of the estate is pending.

20-50 (f-1) Filing Requirements Applicable. Nothing in
20-51 Subsection (f) shall relieve a creditor who elects matured secured
20-52 status from the filing requirements in Subsection (b), to the
20-53 extent applicable.

20-54 (g) Statute of Limitations. Except as otherwise provided in
20-55 Section 16.062, Civil Practice and Remedies Code, the running of
20-56 the statute of limitations shall be tolled only by a written
20-57 approval of a claim signed by an independent executor, a pleading
20-58 filed in a suit pending at the time of the decedent's death, or a
20-59 suit brought by the creditor against the independent executor. In
20-60 particular, the presentation of a statement or claim, or a notice
20-61 with respect to a claim, to an independent executor shall not toll
20-62 the running of the statute of limitations with respect to that
20-63 claim.

20-64 (h) Other Claim Procedures of Code Generally Do Not Apply.
20-65 Except as otherwise provided in this section, the procedural
20-66 provisions of this title governing creditor claims in supervised
20-67 administrations do not apply in independent administrations. By way
20-68 of example only and not of limitation:

20-69 (1) Sections 355.064 and 355.066 do not apply in

21-1 independent administrations, and consequently a creditor's claim
 21-2 shall not be barred solely because the creditor failed to file a
 21-3 suit within 90 days after a claim has been rejected by an
 21-4 independent executor or with respect to which the independent
 21-5 executor takes no action; and

21-6 (2) Sections 355.156, 355.157, 355.158, 355.159, and
 21-7 355.160 do not apply in independent administrations.

21-8 (i) Liability of Independent Executor. An independent
 21-9 executor, in the administration of an estate, may pay at any time
 21-10 and without personal liability a claim for money against the estate
 21-11 to the extent approved and classified by the personal
 21-12 representative if:

21-13 (1) the claim is not barred by limitations; and

21-14 (2) at the time of payment, the independent executor
 21-15 reasonably believes the estate will have sufficient assets to pay
 21-16 all claims against the estate.

21-17 Sec. 403.003. ENFORCEMENT OF CLAIMS BY SUIT. Any person
 21-18 having a debt or claim against the estate may enforce the payment of
 21-19 the same by suit against the independent executor; and, when
 21-20 judgment is recovered against the independent executor, the
 21-21 execution shall run against the estate of the decedent in the
 21-22 possession of the independent executor that is subject to such
 21-23 debt. The independent executor shall not be required to plead to
 21-24 any suit brought against the executor for money until after six
 21-25 months after the date that an independent administration was
 21-26 created and the order appointing the executor was entered by the
 21-27 probate court.

21-28 Sec. 403.004. REQUIRING HEIRS TO GIVE BOND. When an
 21-29 independent administration is created and the order appointing an
 21-30 independent executor is entered by the probate court, any person
 21-31 having a debt against such estate may, by written complaint filed in
 21-32 the probate court in which such order was entered, cause all
 21-33 distributees of the estate, heirs at law, and other persons
 21-34 entitled to any portion of such estate under the will, if any, to be
 21-35 cited by personal service to appear before such probate court and
 21-36 execute a bond for an amount equal to the amount of the creditor's
 21-37 claim or the full value of such estate, as shown by the inventory
 21-38 and list of claims, whichever is the smaller, such bond to be
 21-39 payable to the judge, and the judge's successors, and to be approved
 21-40 by the judge, and conditioned that all obligors shall pay all debts
 21-41 that shall be established against such estate in the manner
 21-42 provided by law. On the return of the citation served, unless such
 21-43 person so entitled to any portion of the estate, or some of them, or
 21-44 some other person for them, shall execute such bond to the
 21-45 satisfaction of the probate court, such estate shall be
 21-46 administered and settled under the direction of the probate court
 21-47 as other estates are required to be settled. If the bond is
 21-48 executed and approved, the independent administration shall
 21-49 proceed. Creditors of the estate may sue on such bond, and shall be
 21-50 entitled to judgment on the bond for the amount of their debt, or
 21-51 they may have their action against those in possession of the
 21-52 estate.

21-53 CHAPTER 404. ACCOUNTINGS, SUCCESSORS, AND OTHER REMEDIES

21-54 Sec. 404.001. ACCOUNTING. (a) Interested Person May
 21-55 Demand Accounting. At any time after the expiration of 15 months
 21-56 after the date that an independent administration was created and
 21-57 the order appointing an independent executor was entered by the
 21-58 probate court, any person interested in the estate may demand an
 21-59 accounting from the independent executor. The independent executor
 21-60 shall furnish to the person or persons making the demand an exhibit
 21-61 in writing, sworn and subscribed by the independent executor,
 21-62 setting forth in detail:

21-63 (1) the property belonging to the estate that has come
 21-64 into the executor's possession as executor;

21-65 (2) the disposition that has been made of such
 21-66 property;

21-67 (3) the debts that have been paid;

21-68 (4) the debts and expenses, if any, still owing by the
 21-69 estate;

22-1 (5) the property of the estate, if any, still
 22-2 remaining in the executor's possession;

22-3 (6) such other facts as may be necessary to a full and
 22-4 definite understanding of the exact condition of the estate; and

22-5 (7) such facts, if any, that show why the
 22-6 administration should not be closed and the estate distributed.

22-7 (a-1) Copy of Exhibit or Accounting. Any other interested
 22-8 person shall, on demand, be entitled to a copy of any exhibit or
 22-9 accounting that has been made by an independent executor in
 22-10 compliance with this section.

22-11 (b) Enforcement of Demand. Should the independent executor
 22-12 not comply with a demand for an accounting authorized by this
 22-13 section within 60 days after receipt of the demand, the person
 22-14 making the demand may compel compliance by an action in the probate
 22-15 court. After a hearing, the court shall enter an order requiring the
 22-16 accounting to be made at such time as it considers proper under the
 22-17 circumstances.

22-18 (c) Subsequent Demands. After an initial accounting has
 22-19 been given by an independent executor, any person interested in an
 22-20 estate may demand subsequent periodic accountings at intervals of
 22-21 not less than 12 months, and such subsequent demands may be enforced
 22-22 in the same manner as an initial demand.

22-23 (d) Remedies Cumulative. The right to an accounting
 22-24 accorded by this section is cumulative of any other remedies which
 22-25 persons interested in an estate may have against the independent
 22-26 executor of the estate.

22-27 Sec. 404.002. REQUIRING INDEPENDENT EXECUTOR TO GIVE BOND.
 22-28 When it has been provided by will, regularly probated, that an
 22-29 independent executor appointed by such will shall not be required
 22-30 to give bond for the management of the estate devised by such will,
 22-31 or the independent executor is not required to give bond because
 22-32 bond has been waived by court order as authorized under Section
 22-33 401.005, then such independent executor may be required to give
 22-34 bond, on proper proceedings had for that purpose as in the case of
 22-35 personal representatives in a supervised administration, if it be
 22-36 made to appear at any time that such independent executor is
 22-37 mismanaging the property, or has betrayed or is about to betray the
 22-38 independent executor's trust, or has in some other way become
 22-39 disqualified.

22-40 Sec. 404.003. REMOVAL OF INDEPENDENT EXECUTOR. (a) The
 22-41 probate court, on its own motion or on motion of any interested
 22-42 person, after the independent executor has been cited by personal
 22-43 service to answer at a time and place fixed in the notice, may
 22-44 remove an independent executor when:

22-45 (1) the independent executor fails to return within 90
 22-46 days after qualification, unless such time is extended by order of
 22-47 the court, an inventory of the property of the estate and list of
 22-48 claims that have come to the independent executor's knowledge;

22-49 (2) sufficient grounds appear to support belief that
 22-50 the independent executor has misapplied or embezzled, or that the
 22-51 independent executor is about to misapply or embezzle, all or any
 22-52 part of the property committed to the independent executor's care;

22-53 (3) the independent executor fails to make an
 22-54 accounting which is required by law to be made;

22-55 (4) the independent executor fails to timely file the
 22-56 affidavit or certificate required by Section 308.004;

22-57 (5) the independent executor is proved to have been
 22-58 guilty of gross misconduct or gross mismanagement in the
 22-59 performance of the independent executor's duties; or

22-60 (6) the independent executor becomes an incapacitated
 22-61 person, or is sentenced to the penitentiary, or from any other cause
 22-62 becomes legally incapacitated from properly performing the
 22-63 independent executor's fiduciary duties.

22-64 (b) The order of removal shall state the cause of removal
 22-65 and shall direct by order the disposition of the assets remaining in
 22-66 the name or under the control of the removed executor. The order of
 22-67 removal shall require that letters issued to the removed executor
 22-68 shall be surrendered and that all letters shall be canceled of
 22-69 record. If an independent executor is removed by the court under

23-1 this section, the court may, on application, appoint a successor
 23-2 independent executor as provided by Section 404.005.

23-3 (c) An independent executor who defends an action for the
 23-4 independent executor's removal in good faith, whether successful or
 23-5 not, shall be allowed out of the estate the independent executor's
 23-6 necessary expenses and disbursements, including reasonable
 23-7 attorney's fees, in the removal proceedings.

23-8 (d) Costs and expenses incurred by the party seeking removal
 23-9 that are incident to removal of an independent executor appointed
 23-10 without bond, including reasonable attorney's fees and expenses,
 23-11 may be paid out of the estate.

23-12 Sec. 404.004. POWERS OF AN ADMINISTRATOR WHO SUCCEEDS AN
 23-13 INDEPENDENT EXECUTOR. (a) Grant of Powers by Court. Whenever a
 23-14 person has died, or shall die, testate, owning property in this
 23-15 state, and such person's will has been or shall be admitted to
 23-16 probate by the court, and such probated will names an independent
 23-17 executor or executors, or trustees acting in the capacity of
 23-18 independent executors, to execute the terms and provisions of said
 23-19 will, and such will grants to such independent executor, or
 23-20 executors, or trustees acting in the capacity of independent
 23-21 executors, the power to raise or borrow money and to mortgage, and
 23-22 such independent executor, or executors, or trustees, have died or
 23-23 shall die, resign, fail to qualify, or be removed from office,
 23-24 leaving unexecuted parts or portions of the will of the testator,
 23-25 and an administrator with the will annexed is appointed by the
 23-26 probate court, and an administrator's bond is filed and approved by
 23-27 the court, then in all such cases, the court may, in addition to the
 23-28 powers conferred on such administrator under other provisions of
 23-29 the laws of this state, authorize, direct, and empower such
 23-30 administrator to do and perform the acts and deeds, clothed with the
 23-31 rights, powers, authorities, and privileges, and subject to the
 23-32 limitations, set forth in the subsequent provisions of this
 23-33 section.

23-34 (b) Power to Borrow Money and Mortgage or Pledge Property.
 23-35 The court, on application, citation, and hearing, may, by its
 23-36 order, authorize, direct, and empower such administrator to raise
 23-37 or borrow such sums of money and incur such obligations and debts as
 23-38 the court shall, in its said order, direct, and to renew and extend
 23-39 same from time to time, as the court, on application and order,
 23-40 shall provide; and, if authorized by the court's order, to secure
 23-41 such loans, obligations, and debts, by pledge or mortgage on
 23-42 property or assets of the estate, real, personal, or mixed, on such
 23-43 terms and conditions, and for such duration of time, as the court
 23-44 shall consider to be in the best interests of the estate, and by its
 23-45 order shall prescribe; and all such loans, obligations, debts,
 23-46 pledges, and mortgages shall be valid and enforceable against the
 23-47 estate and against such administrator in the administrator's
 23-48 official capacity.

23-49 (c) Powers Limited to Those Granted by the Will. The court
 23-50 may order and authorize such administrator to have and exercise the
 23-51 powers and privileges set forth in Subsection (a) or (b) only to the
 23-52 extent that same are granted to or possessed by the independent
 23-53 executor, or executors, or trustees acting in the capacity of
 23-54 independent executors, under the terms of the probated will of such
 23-55 deceased person, and then only in such cases as it appears, at the
 23-56 hearing of the application, that at the time of the appointment of
 23-57 such administrator, there are outstanding and unpaid obligations
 23-58 and debts of the estate, or of the independent executor, or
 23-59 executors, or trustees, chargeable against the estate, or unpaid
 23-60 expenses of administration, or when the court appointing such
 23-61 administrator orders the business of such estate to be carried on
 23-62 and it becomes necessary, from time to time, under orders of the
 23-63 court, for such administrator to borrow money and incur obligations
 23-64 and indebtedness in order to protect and preserve the estate.

23-65 (d) Powers Other Than Those Relating to Borrowing Money and
 23-66 Mortgaging or Pledging Property. The court, in addition, may, on
 23-67 application, citation, and hearing, order, authorize, and empower
 23-68 such administrator to assume, exercise, and discharge, under the
 23-69 orders and directions of said court, made from time to time, all or

24-1 such part of the rights, powers, and authorities vested in and
 24-2 delegated to, or possessed by, the independent executor, or
 24-3 executors, or trustees acting in the capacity of independent
 24-4 executors, under the terms of the will of such deceased person, as
 24-5 the court finds to be in the best interests of the estate and shall,
 24-6 from time to time, order and direct.

24-7 (e) Application for Grant of Powers. The granting to such
 24-8 administrator by the court of some, or all, of the powers and
 24-9 authorities set forth in this section shall be on application filed
 24-10 by such administrator with the county clerk, setting forth such
 24-11 facts as, in the judgment of the administrator, require the
 24-12 granting of the power or authority requested.

24-13 (f) Citation. On the filing of such application, the clerk
 24-14 shall issue citation to all persons interested in the estate,
 24-15 stating the nature of the application, and requiring such persons
 24-16 to appear on the return day named in such citation and show cause
 24-17 why such application should not be granted, should they choose to do
 24-18 so. Such citation shall be served by posting.

24-19 (g) Hearing and Order. The court shall hear such
 24-20 application and evidence on the application, on or after the return
 24-21 day named in the citation, and, if satisfied a necessity exists and
 24-22 that it would be in the best interests of the estate to grant said
 24-23 application in whole or in part, the court shall so order;
 24-24 otherwise, the court shall refuse said application.

24-25 Sec. 404.005. COURT-APPOINTED SUCCESSOR INDEPENDENT
 24-26 EXECUTOR. (a) If the will of a person who dies testate names an
 24-27 independent executor who, having qualified, fails for any reason to
 24-28 continue to serve, or is removed for cause by the court, and the
 24-29 will does not name a successor independent executor or if each
 24-30 successor executor named in the will fails for any reason to qualify
 24-31 as executor or indicates by affidavit filed with the application
 24-32 for an order continuing independent administration the successor
 24-33 executor's inability or unwillingness to serve as successor
 24-34 independent executor, all of the distributees of the decedent as of
 24-35 the filing of the application for an order continuing independent
 24-36 administration may apply to the probate court for the appointment
 24-37 of a qualified person, firm, or corporation to serve as successor
 24-38 independent executor. If the probate court finds that continued
 24-39 administration of the estate is necessary, the probate court shall
 24-40 enter an order continuing independent administration and
 24-41 appointing the person, firm, or corporation designated in the
 24-42 application as successor independent executor, unless the probate
 24-43 court finds that it would not be in the best interest of the estate
 24-44 to do so. Such successor shall serve with all of the powers and
 24-45 privileges granted to the successor's predecessor independent
 24-46 executor.

24-47 (b) If a distributee described in this section is an
 24-48 incapacitated person, the guardian of the person of the distributee
 24-49 may sign the application on behalf of the distributee. If the
 24-50 probate court finds that either the continuing of independent
 24-51 administration or the appointment of the person, firm, or
 24-52 corporation designated in the application as successor independent
 24-53 executor would not be in the best interest of the incapacitated
 24-54 person, then, notwithstanding Subsection (a), the probate court may
 24-55 not enter an order continuing independent administration of the
 24-56 estate. If the distributee is an incapacitated person and has no
 24-57 guardian of the person, the court may appoint a guardian ad litem to
 24-58 make application on behalf of the incapacitated person if the
 24-59 probate court considers such an appointment necessary to protect
 24-60 the interest of such distributee.

24-61 (c) If a trust is created in the decedent's will, the person
 24-62 or class of persons first eligible to receive the income from the
 24-63 trust, determined as if the trust were to be in existence on the
 24-64 date of the filing of the application for an order continuing
 24-65 independent administration, shall, for the purposes of this
 24-66 section, be considered to be the distributee or distributees on
 24-67 behalf of such trust, and any other trust or trusts coming into
 24-68 existence on the termination of such trust, and are authorized to
 24-69 apply for an order continuing independent administration on behalf

25-1 of the trust without the consent or agreement of the trustee or any
 25-2 other beneficiary of the trust, or the trustee or any beneficiary of
 25-3 any other trust which may come into existence on the termination of
 25-4 such trust.

25-5 (d) If a life estate is created either in the decedent's
 25-6 will or by law, and if a life tenant is living at the time of the
 25-7 filing of the application for an order continuing independent
 25-8 administration, then the life tenant or life tenants, determined as
 25-9 if the life estate were to commence on the date of the filing of the
 25-10 application for an order continuing independent administration,
 25-11 shall, for the purposes of this section, be considered to be the
 25-12 distributee or distributees on behalf of the entire estate created,
 25-13 and are authorized to apply for an order continuing independent
 25-14 administration on behalf of the estate without the consent or
 25-15 approval of any remainderman.

25-16 (e) If a decedent's will contains a provision that a
 25-17 distributee must survive the decedent by a prescribed period of
 25-18 time in order to take under the decedent's will, for the purposes of
 25-19 determining who shall be the distributee under this section, it
 25-20 shall be presumed that the distributees living at the time of the
 25-21 filing of the application for an order continuing independent
 25-22 administration of the decedent's estate survived the decedent for
 25-23 the prescribed period.

25-24 (f) In the case of all decedents, for the purposes of
 25-25 determining who shall be the distributees under this section, it
 25-26 shall be presumed that no distributee living at the time the
 25-27 application for an order continuing independent administration of
 25-28 the decedent's estate is filed shall subsequently disclaim any
 25-29 portion of such distributee's interest in the decedent's estate.

25-30 (g) If a distributee of a decedent's estate should die, and
 25-31 if by virtue of such distributee's death such distributee's share of
 25-32 the decedent's estate shall become payable to such distributee's
 25-33 estate, then the deceased distributee's personal representative
 25-34 may sign the application for an order continuing independent
 25-35 administration of the decedent's estate under this section.

25-36 (h) If a successor independent executor is appointed under
 25-37 this section, then, unless the probate court shall waive bond on
 25-38 application for waiver, the successor independent executor shall be
 25-39 required to enter into bond payable to and to be approved by the
 25-40 judge and the judge's successors in a sum that is found by the judge
 25-41 to be adequate under all circumstances, or a bond with one surety in
 25-42 an amount that is found by the judge to be adequate under all
 25-43 circumstances, if the surety is an authorized corporate surety.

25-44 (i) Absent proof of fraud or collusion on the part of a
 25-45 judge, the judge may not be held civilly liable for the commission
 25-46 of misdeeds or the omission of any required act of any person, firm,
 25-47 or corporation designated as a successor independent executor under
 25-48 this section. Section 351.354 does not apply to an appointment of a
 25-49 successor independent executor under this section.

25-50 CHAPTER 405. CLOSING AND DISTRIBUTIONS

25-51 Sec. 405.001. ACCOUNTING AND DISTRIBUTION. (a) In
 25-52 addition to or in lieu of the right to an accounting provided by
 25-53 Section 404.001, at any time after the expiration of two years after
 25-54 the date that an independent administration was created and the
 25-55 order appointing an independent executor was entered, a person
 25-56 interested in the estate may petition the court for an accounting
 25-57 and distribution. The court may order an accounting to be made with
 25-58 the court by the independent executor at such time as the court
 25-59 considers proper. The accounting shall include the information that
 25-60 the court considers necessary to determine whether any part of the
 25-61 estate should be distributed.

25-62 (b) On receipt of the accounting and, after notice to the
 25-63 independent executor and a hearing, unless the court finds a
 25-64 continued necessity for administration of the estate, the court
 25-65 shall order its distribution by the independent executor to the
 25-66 distributees entitled to the property. If the court finds there is
 25-67 a continued necessity for administration of the estate, the court
 25-68 shall order the distribution of any portion of the estate that the
 25-69 court finds should not be subject to further administration by the

26-1 independent executor. If any portion of the estate that is ordered
 26-2 to be distributed is incapable of distribution without prior
 26-3 partition or sale, the court shall order partition and
 26-4 distribution, or sale, in the manner provided for the partition and
 26-5 distribution of property incapable of division in supervised
 26-6 estates.

26-7 (c) If all the property in the estate is ordered distributed
 26-8 by the court and the estate is fully administered, the court may
 26-9 also order the independent executor to file a final account with the
 26-10 court and may enter an order closing the administration and
 26-11 terminating the power of the independent executor to act as
 26-12 executor.

26-13 Sec. 405.002. RECEIPTS AND RELEASES FOR DISTRIBUTIONS BY
 26-14 INDEPENDENT EXECUTOR. (a) An independent executor may not be
 26-15 required to deliver tangible or intangible personal property to a
 26-16 distributee unless the independent executor shall receive, at or
 26-17 before the time of delivery of the property, a signed receipt or
 26-18 other proof of delivery of the property to the distributee.

26-19 (b) An independent executor may not require a waiver or
 26-20 release from the distributee as a condition of delivery of property
 26-21 to a distributee.

26-22 Sec. 405.003. JUDICIAL DISCHARGE OF INDEPENDENT EXECUTOR.

26-23 (a) After an estate has been administered and if there is no
 26-24 further need for an independent administration of the estate, the
 26-25 independent executor of the estate may file an action for
 26-26 declaratory judgment under Chapter 37, Civil Practice and Remedies
 26-27 Code, seeking to discharge the independent executor from any
 26-28 liability involving matters relating to the past administration of
 26-29 the estate that have been fully and fairly disclosed.

26-30 (b) On the filing of an action under this section, each
 26-31 beneficiary of the estate shall be personally served with citation,
 26-32 except for a beneficiary who has waived the issuance and service of
 26-33 citation.

26-34 (c) In a proceeding under this section, the court may
 26-35 require the independent executor to file a final account that
 26-36 includes any information the court considers necessary to
 26-37 adjudicate the independent executor's request for a discharge of
 26-38 liability. The court may audit, settle, or approve a final account
 26-39 filed under this subsection.

26-40 (d) On or before filing an action under this section, the
 26-41 independent executor must distribute to the beneficiaries of the
 26-42 estate any of the remaining assets or property of the estate that
 26-43 remains in the independent executor's possession after all of the
 26-44 estate's debts have been paid, except for a reasonable reserve of
 26-45 assets that the independent executor may retain in a fiduciary
 26-46 capacity pending court approval of the final account. The court may
 26-47 review the amount of assets on reserve and may order the independent
 26-48 executor to make further distributions under this section.

26-49 (e) Except as ordered by the court, the independent executor
 26-50 is entitled to pay from the estate legal fees, expenses, or other
 26-51 costs incurred in relation to a proceeding for judicial discharge
 26-52 filed under this section. The independent executor shall be
 26-53 personally liable to refund any amount of such fees, expenses, or
 26-54 other costs not approved by the court as a proper charge against the
 26-55 estate.

26-56 Sec. 405.004. CLOSING INDEPENDENT ADMINISTRATION BY
 26-57 CLOSING REPORT OR NOTICE OF CLOSING ESTATE. When all of the debts
 26-58 known to exist against the estate have been paid, or when they have
 26-59 been paid so far as the assets in the independent executor's
 26-60 possession will permit, when there is no pending litigation, and
 26-61 when the independent executor has distributed to the distributees
 26-62 entitled to the estate all assets of the estate, if any, remaining
 26-63 after payment of debts, the independent executor may file with the
 26-64 court a closing report or a notice of closing of the estate.

26-65 (a) Closing Report. An independent executor may file a
 26-66 closing report verified by affidavit that:

26-67 (1) shows:

26-68 (A) the property of the estate that came into the
 26-69 independent executor's possession;

27-1 (B) the debts that have been paid;
 27-2 (C) the debts, if any, still owing by the estate;
 27-3 (D) the property of the estate, if any, remaining
 27-4 on hand after payment of debts; and
 27-5 (E) the names and addresses of the distributees
 27-6 to whom the property of the estate, if any, remaining on hand after
 27-7 payment of debts has been distributed; and
 27-8 (2) includes signed receipts or other proof of
 27-9 delivery of property to the distributees named in the closing
 27-10 report if the closing report reflects that there was property
 27-11 remaining on hand after payment of debts.
 27-12 (b) Notice of Closing Estate. (1) An independent executor
 27-13 is not required to but may file a notice of closing estate verified
 27-14 by affidavit that states:
 27-15 (A) that all debts known to exist against the
 27-16 estate have been paid or that the debts have been paid so far as the
 27-17 assets in the possession of the independent executor will permit;
 27-18 (B) that all remaining assets of the estate, if
 27-19 any, have been distributed; and
 27-20 (C) the names and addresses of the distributees
 27-21 to whom the property of the estate, if any, remaining on hand after
 27-22 payment of debts has been distributed.
 27-23 (2) Before filing the notice, the independent executor
 27-24 shall provide all distributees of the estate with a copy of the
 27-25 notice of closing estate. The notice of closing estate filed by the
 27-26 independent executor shall include signed receipts or other proof
 27-27 that all distributees have received a copy of the notice of closing
 27-28 estate.
 27-29 (c) Effect of Filing Closing Report or Notice of Closing
 27-30 Estate. (1) The independent administration of an estate shall be
 27-31 considered closed 30 days after the filing of a closing report or
 27-32 notice of closing estate unless an interested person files an
 27-33 objection within the 30-day period. If an interested person files
 27-34 an objection, the independent administration of the estate shall be
 27-35 closed when the objection has been disposed of or the court signs an
 27-36 order closing the estate.
 27-37 (2) The closing of an independent administration by
 27-38 filing of a closing report or notice of closing estate terminates
 27-39 the power and authority of the independent executor, but does not
 27-40 relieve the independent executor from liability for any
 27-41 mismanagement of the estate or from liability for any false
 27-42 statements contained in the report or notice.
 27-43 (3) When a closing report or notice of closing estate
 27-44 has been filed, persons dealing with properties of the estate, or
 27-45 with claims against the estate, shall deal directly with the
 27-46 distributees of the estate; and the acts of such distributees with
 27-47 respect to such properties or claims shall in all ways be valid and
 27-48 binding as regards the persons with whom they deal, notwithstanding
 27-49 any false statements made by the independent executor in such
 27-50 report or notice.
 27-51 (4) If the independent executor is required to give
 27-52 bond, the independent executor's filing of the closing report and
 27-53 proof of delivery, if required, automatically releases the sureties
 27-54 on the bond from all liability for the future acts of the principal.
 27-55 The filing of a notice of closing estate does not release the
 27-56 sureties on the bond of an independent executor.
 27-57 (5) An independent executor's closing report or notice
 27-58 of closing estate shall constitute sufficient legal authority to
 27-59 all persons owing any money, having custody of any property, or
 27-60 acting as registrar or transfer agent or trustee of any evidence of
 27-61 interest, indebtedness, property, or right that belongs to the
 27-62 estate, for payment or transfer without additional administration
 27-63 to the distributees described in the will as entitled to receive the
 27-64 particular asset or who as heirs at law are entitled to receive the
 27-65 asset. The distributees described in the will as entitled to
 27-66 receive the particular asset or the heirs at law entitled to receive
 27-67 the asset may enforce their right to the payment or transfer by
 27-68 suit.
 27-69 Sec. 405.005. PARTITION AND DISTRIBUTION OR SALE OF

28-1 PROPERTY INCAPABLE OF DIVISION. If the will does not distribute the
 28-2 entire estate of the testator or provide a means for partition of
 28-3 the estate, or if no will was probated, the independent executor
 28-4 may, but may not be required to, petition the probate court for
 28-5 either a partition and distribution of the estate or an order of
 28-6 sale of any portion of the estate alleged by the independent
 28-7 executor and found by the court to be incapable of a fair and equal
 28-8 partition and distribution, or both. The estate or portion of the
 28-9 estate shall either be partitioned and distributed or sold, or
 28-10 both, in the manner provided for the partition and distribution of
 28-11 property and the sale of property incapable of division in
 28-12 supervised estates.

28-13 Sec. 405.006. CLOSING INDEPENDENT ADMINISTRATION ON
 28-14 APPLICATION BY DISTRIBUTEES. (a) At any time after an estate has
 28-15 been fully administered and there is no further need for an
 28-16 independent administration of such estate, any distributee may file
 28-17 an application to close the administration; and, after citation on
 28-18 the independent executor, and on hearing, the court may enter an
 28-19 order:

28-20 (1) requiring the independent executor to file a
 28-21 closing report meeting the requirements of Section 405.004;

28-22 (2) closing the administration;

28-23 (3) terminating the power of the independent executor
 28-24 to act as such; and

28-25 (4) releasing the sureties on any bond the independent
 28-26 executor was required to give from all liability for the future acts
 28-27 of the principal.

28-28 (b) The order of the court closing the independent
 28-29 administration shall constitute sufficient legal authority to all
 28-30 persons owing any money, having custody of any property, or acting
 28-31 as registrar or transfer agent or trustee of any evidence of
 28-32 interest, indebtedness, property, or right that belongs to the
 28-33 estate, for payment or transfer without additional administration
 28-34 to the distributees described in the will as entitled to receive the
 28-35 particular asset or who as heirs at law are entitled to receive the
 28-36 asset. The distributees described in the will as entitled to
 28-37 receive the particular asset or the heirs at law entitled to receive
 28-38 the asset may enforce their right to the payment or transfer by
 28-39 suit.

28-40 Sec. 405.007. ISSUANCE OF LETTERS. At any time before the
 28-41 authority of an independent executor has been terminated in the
 28-42 manner set forth in this subtitle, the clerk shall issue such number
 28-43 of letters testamentary as the independent executor shall request.

28-44 Sec. 405.008. RIGHTS AND REMEDIES CUMULATIVE. The rights
 28-45 and remedies conferred by this chapter are cumulative of other
 28-46 rights and remedies to which a person interested in the estate may
 28-47 be entitled under law.

28-48 Sec. 405.009. CLOSING PROCEDURES NOT REQUIRED. An
 28-49 independent executor is not required to close the independent
 28-50 administration of an estate under Section 405.003 or 405.004.

28-51 SECTION 2.02. Chapter VI-1, Texas Probate Code, as added by
 28-52 Article 1 of this Act, is repealed.

28-53 SECTION 2.03. (a) Except as provided by Subsection (b) of
 28-54 this section, this article takes effect January 1, 2014.

28-55 (b) The changes in law made by this article take effect only
 28-56 if H.B. No. 2502 or S.B. No. 2071, Acts of the 81st Legislature,
 28-57 Regular Session, 2009, are enacted and become law. If neither bill
 28-58 becomes law, this article has no effect.

28-59 ARTICLE 3. EFFECTIVE DATE

28-60 SECTION 3.01. Except as otherwise provided by this Act,
 28-61 this Act takes effect September 1, 2009.

28-62 * * * * *