

By: Gonzales

H.B. No. 3314

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the transfer of title to a decedent's homestead through
3 a small estate affidavit.

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

5 SECTION 1. Section 137(c), Texas Probate Code, is amended
6 to read as follows:

7 (c) Title to a decedent's homestead that is the only real
8 property in the [~~a~~] decedent's estate may be transferred on an
9 affidavit that meets the requirements of this section only to a
10 distributee who is the decedent's child or who occupied the
11 property as the distributee's principal residence on the date of
12 the decedent's death, provided that the distributee is otherwise
13 entitled to the property. An affidavit that is used to transfer
14 title to a homestead under this section must be recorded in the deed
15 records of a county in which the homestead is located. A bona fide
16 purchaser for value may rely on a recorded affidavit under this
17 section. A bona fide purchaser for value without actual or
18 constructive notice of an heir who is not disclosed in a recorded
19 affidavit under this section acquires title to a homestead free of
20 the interests of the undisclosed heir, but the bona fide purchaser
21 remains subject to any claim a creditor of the decedent has by law.
22 A purchaser has constructive notice of an heir who is not disclosed
23 in a recorded affidavit under this section if an affidavit,
24 judgment of heirship, or title transaction in the chain of title in

1 the deed records identifies the heir of the decedent who is not
2 disclosed in the affidavit as an heir of the decedent. An heir who
3 is not disclosed in a recorded affidavit under this section may
4 recover from an heir who receives consideration from a purchaser in
5 a transfer for value of title to a homestead passing under the
6 affidavit.

7 SECTION 2. Section 137(c), Texas Probate Code, as amended
8 by this Act, applies to the estate of a decedent that is pending on
9 or after the effective date of this Act, regardless of the
10 decedent's date of death.

11 SECTION 3. This Act takes effect September 1, 2009.