

1-1 By: Gonzales (Senate Sponsor - Hinojsa) H.B. No. 3314
1-2 (In the Senate - Received from the House May 7, 2009;
1-3 May 8, 2009, read first time and referred to Committee on
1-4 Jurisprudence; May 21, 2009, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 21, 2009, sent to printer.)

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

1-8 relating to the transfer of title to a decedent's homestead through
1-9 a small estate affidavit.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 137(c), Texas Probate Code, is amended
1-12 to read as follows:

1-13 (c) Title to a decedent's homestead that is the only real
1-14 property in the [a] decedent's estate may be transferred on an
1-15 affidavit that meets the requirements of this section only to a
1-16 distributee who is the decedent's child or who occupied the
1-17 property as the distributee's principal residence on the date of
1-18 the decedent's death, provided that the distributee is otherwise
1-19 entitled to the property. An affidavit that is used to transfer
1-20 title to a homestead under this section must be recorded in the deed
1-21 records of a county in which the homestead is located. A bona fide
1-22 purchaser for value may rely on a recorded affidavit under this
1-23 section. A bona fide purchaser for value without actual or
1-24 constructive notice of an heir who is not disclosed in a recorded
1-25 affidavit under this section acquires title to a homestead free of
1-26 the interests of the undisclosed heir, but the bona fide purchaser
1-27 remains subject to any claim a creditor of the decedent has by law.
1-28 A purchaser has constructive notice of an heir who is not disclosed
1-29 in a recorded affidavit under this section if an affidavit,
1-30 judgment of heirship, or title transaction in the chain of title in
1-31 the deed records identifies the heir of the decedent who is not
1-32 disclosed in the affidavit as an heir of the decedent. An heir who
1-33 is not disclosed in a recorded affidavit under this section may
1-34 recover from an heir who receives consideration from a purchaser in
1-35 a transfer for value of title to a homestead passing under the
1-36 affidavit.

1-37 SECTION 2. Section 137(c), Texas Probate Code, as amended
1-38 by this Act, applies to the estate of a decedent that is pending on
1-39 or after the effective date of this Act, regardless of the
1-40 decedent's date of death.

1-41 SECTION 3. This Act takes effect September 1, 2009.

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