

1-1 By: Rodriguez S.B. No. 1198
1-2 (In the Senate - Filed March 4, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 29, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 29, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1198 By: Rodriguez

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to decedents' estates.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 ARTICLE 1. CHANGES TO TEXAS PROBATE CODE

1-13 SECTION 1.01. Section 4D, Texas Probate Code, is amended by
1-14 adding Subsection (b-1) and amending Subsections (e) and (g) to
1-15 read as follows:

1-16 (b-1) If a judge of a county court requests the assignment
1-17 of a statutory probate court judge to hear a contested matter in a
1-18 probate proceeding on the judge's own motion or on the motion of a
1-19 party to the proceeding as provided by this section, the judge may
1-20 request that the statutory probate court judge be assigned to the
1-21 entire proceeding on the judge's own motion or on the motion of a
1-22 party.

1-23 (e) A statutory probate court judge assigned to a contested
1-24 matter in a probate proceeding or to the entire proceeding under
1-25 this section has the jurisdiction and authority granted to a
1-26 statutory probate court by this code. A statutory probate court
1-27 judge assigned to hear only the contested matter in a probate
1-28 proceeding shall, on [On] resolution of the [a contested] matter
1-29 [for which a statutory probate court judge is assigned under this
1-30 section], including any appeal of the matter, [the statutory
1-31 probate court judge shall] return the matter to the county court for
1-32 further proceedings not inconsistent with the orders of the
1-33 statutory probate court or court of appeals, as applicable. A
1-34 statutory probate court judge assigned to the entire probate
1-35 proceeding as provided by Subsection (b-1) of this section shall,
1-36 on resolution of the contested matter in the proceeding, including
1-37 any appeal of the matter, return the entire proceeding to the county
1-38 court for further proceedings not inconsistent with the orders of
1-39 the statutory probate court or court of appeals, as applicable.

1-40 (g) If only the contested matter in a probate proceeding is
1-41 assigned to a statutory probate court judge under this section, or
1-42 if the contested matter in a probate proceeding is transferred to a
1-43 district court under this section, the [The] county court shall
1-44 continue to exercise jurisdiction over the management of the
1-45 estate, other than a contested matter, until final disposition of
1-46 the contested matter is made in accordance with this section. Any
1-47 [After a contested matter is transferred to a district court, any]
1-48 matter related to a [the] probate proceeding in which a contested
1-49 matter is transferred to a district court may be brought in the
1-50 district court. The district court in which a matter related to the
1-51 [probate] proceeding is filed may, on its own motion or on the
1-52 motion of any party, find that the matter is not a contested matter
1-53 and transfer the matter to the county court with jurisdiction of the
1-54 management of the estate.

1-55 SECTION 1.02. Section 4H, Texas Probate Code, is amended to
1-56 read as follows:

1-57 Sec. 4H. CONCURRENT JURISDICTION WITH DISTRICT COURT. A
1-58 statutory probate court has concurrent jurisdiction with the
1-59 district court in:

1-60 (1) a personal injury, survival, or wrongful death
1-61 action by or against a person in the person's capacity as a personal
1-62 representative;

1-63 (2) an action by or against a trustee;

2-1 (3) an action involving an inter vivos trust,
2-2 testamentary trust, or charitable trust, including a charitable
2-3 trust as defined by Section 123.001, Property Code;

2-4 (4) an action involving a personal representative of
2-5 an estate in which each other party aligned with the personal
2-6 representative is not an interested person in that estate;

2-7 (5) an action against an agent or former agent under a
2-8 power of attorney arising out of the agent's performance of the
2-9 duties of an agent; and

2-10 (6) an action to determine the validity of a power of
2-11 attorney or to determine an agent's rights, powers, or duties under
2-12 a power of attorney.

2-13 SECTION 1.03. The heading to Section 5B, Texas Probate
2-14 Code, is amended to read as follows:

2-15 Sec. 5B. TRANSFER TO STATUTORY PROBATE COURT OF PROCEEDING
2-16 RELATED TO PROBATE PROCEEDING.

2-17 SECTION 1.04. Section 6, Texas Probate Code, is amended to
2-18 read as follows:

2-19 Sec. 6. VENUE: [FOR] PROBATE OF WILLS AND GRANTING OF
2-20 LETTERS TESTAMENTARY AND OF ADMINISTRATION [OF ESTATES OF
2-21 DECEDENTS]. Wills shall be admitted to probate, and letters
2-22 testamentary or of administration shall be granted:

2-23 (1) in ~~[(a) In]~~ the county where the decedent
2-24 ~~[deceased]~~ resided, if the decedent ~~[he]~~ had a domicile or fixed
2-25 place of residence in this State; ~~[-]~~

2-26 (2) if ~~[(b) If]~~ the decedent ~~[deceased]~~ had no
2-27 domicile or fixed place of residence in this State but died in this
2-28 State, then either in the county where the decedent's ~~[his]~~
2-29 principal estate ~~[property]~~ was at the time of the decedent's ~~[his]~~
2-30 death, or in the county where the decedent ~~[he]~~ died; or ~~[-]~~

2-31 (3) if the decedent ~~[(c) If he]~~ had no domicile or
2-32 fixed place of residence in this State, and died outside the limits
2-33 of this State:

2-34 (A) ~~[-, then]~~ in any county in this State where the
2-35 decedent's ~~[his]~~ nearest of kin reside; or ~~[-]~~

2-36 (B) ~~[(d) But]~~ if there are ~~[he had]~~ no kindred of
2-37 the decedent in this State, then in the county where the decedent's
2-38 ~~[his]~~ principal estate was situated at the time of the decedent's
2-39 ~~[his]~~ death.

2-40 ~~[(e) In the county where the applicant resides, when~~
2-41 ~~administration is for the purpose only of receiving funds or money~~
2-42 ~~due to a deceased person or his estate from any governmental source~~
2-43 ~~or agency, provided, that unless the mother or father or spouse or~~
2-44 ~~adult child of the deceased is applicant, citation shall be served~~
2-45 ~~personally on the living parents and spouses and adult children, if~~
2-46 ~~any, of the deceased person, or upon those who are alive and whose~~
2-47 ~~addresses are known to the applicant.]~~

2-48 SECTION 1.05. Chapter I, Texas Probate Code, is amended by
2-49 adding Sections 6A, 6B, 6C, and 6D to read as follows:

2-50 Sec. 6A. VENUE: ACTION RELATED TO PROBATE PROCEEDING IN
2-51 STATUTORY PROBATE COURT. Except as provided by Section 6B of this
2-52 code, venue for any cause of action related to a probate proceeding
2-53 pending in a statutory probate court is proper in the statutory
2-54 probate court in which the decedent's estate is pending.

2-55 Sec. 6B. VENUE: CERTAIN ACTIONS INVOLVING PERSONAL
2-56 REPRESENTATIVE. Notwithstanding any other provision of this
2-57 chapter, the proper venue for an action by or against a personal
2-58 representative for personal injury, death, or property damages is
2-59 determined under Section 15.007, Civil Practice and Remedies Code.

2-60 Sec. 6C. VENUE: HEIRSHIP PROCEEDINGS. (a) Venue for a
2-61 proceeding to determine a decedent's heirs is in:

2-62 (1) the court of the county in which a proceeding
2-63 admitting the decedent's will to probate or administering the
2-64 decedent's estate was most recently pending; or

2-65 (2) the court of the county in which venue would be
2-66 proper for commencement of an administration of the decedent's
2-67 estate under Section 6 of this code if:

2-68 (A) no will of the decedent has been admitted to
2-69 probate in this state and no administration of the decedent's

3-1 estate has been granted in this state; or
 3-2 (B) the proceeding is commenced by the trustee of
 3-3 a trust holding assets for the benefit of the decedent.

3-4 (b) Notwithstanding Subsection (a) of this section and
 3-5 Section 6 of this code, if there is no administration pending of the
 3-6 estate of a deceased ward who died intestate, venue for a proceeding
 3-7 to determine the deceased ward's heirs is in the probate court in
 3-8 which the guardianship proceedings with respect to the ward's
 3-9 estate were pending on the date of the ward's death. A proceeding
 3-10 described by this subsection may not be brought as part of the
 3-11 guardianship proceedings with respect to the ward's estate, but
 3-12 rather must be filed as a separate cause in which the court may
 3-13 determine the heirs' respective shares and interests in the estate
 3-14 as provided by the laws of this state.

3-15 Sec. 6D. VENUE: CERTAIN ACTIONS INVOLVING BREACH OF
 3-16 FIDUCIARY DUTY. Notwithstanding any other provision of this
 3-17 chapter, venue for a proceeding brought by the attorney general
 3-18 alleging breach of a fiduciary duty by a charitable entity or a
 3-19 fiduciary or managerial agent of a charitable trust is determined
 3-20 under Section 123.005, Property Code.

3-21 SECTION 1.06. Chapter I, Texas Probate Code, is amended by
 3-22 amending Section 8 and adding Sections 8A and 8B to read as follows:

3-23 Sec. 8. CONCURRENT VENUE IN PROBATE PROCEEDING [~~AND~~
 3-24 ~~TRANSFER OF PROCEEDINGS~~]. (a) Concurrent Venue. When two or more
 3-25 courts have concurrent venue of [~~an estate or~~] a probate proceeding
 3-26 [~~to declare heirship under Section 48(a) of this code~~], the court in
 3-27 which the application for the [~~a~~] proceeding [~~in probate or~~
 3-28 ~~determination of heirship~~] is first filed shall have and retain
 3-29 jurisdiction of the [~~estate or heirship~~] proceeding[~~, as~~
 3-30 ~~appropriate~~], to the exclusion of the other court or courts. The
 3-31 proceeding shall be deemed commenced by the filing of an
 3-32 application averring facts sufficient to confer venue; and the
 3-33 proceeding first legally commenced shall extend to all of the
 3-34 property of the decedent or the decedent's estate. Provided,
 3-35 however, that a bona fide purchaser of real property in reliance on
 3-36 any such subsequent proceeding, without knowledge of its
 3-37 invalidity, shall be protected in such purchase unless before the
 3-38 purchase the decree admitting the will to probate, determining
 3-39 heirship, or granting administration in the prior proceeding is
 3-40 [~~shall be~~] recorded in the office of the county clerk of the county
 3-41 in which such property is located.

3-42 (b) Probate Proceedings in More Than One County. If probate
 3-43 proceedings involving the same estate are [~~a proceeding in probate~~
 3-44 ~~or to declare heirship under Section 48(a) of this code is~~]
 3-45 commenced in more than one county, each [~~the~~] proceeding commenced
 3-46 in a county other than the county in which a proceeding was first
 3-47 commenced is [~~shall be~~] stayed [~~except in the county where first~~
 3-48 ~~commenced~~] until final determination of venue by the court in the
 3-49 county where first commenced. If the proper venue is finally
 3-50 determined to be in another county, the clerk, after making and
 3-51 retaining a true copy of the entire file in the case, shall transmit
 3-52 the original file to the proper county, and the proceeding shall
 3-53 thereupon be had in the proper county in the same manner as if the
 3-54 proceeding had originally been instituted therein.

3-55 (c) Jurisdiction to Determine Venue. Subject to
 3-56 Subsections (a) and (b) of this section, a court in which an
 3-57 application for a probate proceeding is filed has jurisdiction to
 3-58 determine venue for the proceeding and for any matter related to the
 3-59 proceeding. A court's determination under this subsection is not
 3-60 subject to collateral attack.

3-61 Sec. 8A. TRANSFER OF VENUE IN PROBATE PROCEEDING [~~Transfer~~
 3-62 ~~of Proceeding~~]. (a) [~~(1)~~] Transfer for Want of Venue. If it
 3-63 appears to the court at any time before the final decree in a
 3-64 probate proceeding that the proceeding was commenced in a court
 3-65 which did not have priority of venue over such proceeding, the court
 3-66 shall, on the application of any interested person, transfer the
 3-67 proceeding to the proper county by transmitting to the proper court
 3-68 in such county the original file in such case, together with
 3-69 certified copies of all entries in the judge's probate docket

4-1 theretofore made, and the proceeding [~~probate of the will,~~
4-2 ~~determination of heirship, or administration of the estate]~~ in such
4-3 county shall be completed in the same manner as if the proceeding
4-4 had originally been instituted therein; but, if the question as to
4-5 priority of venue is not raised before final decree in the
4-6 proceedings is announced, the finality of such decree shall not be
4-7 affected by any error in venue.

4-8 (b) [~~(2)~~] Transfer for Convenience [~~of the Estate~~]. If it
4-9 appears to the court at any time before a probate proceeding [~~the~~
4-10 ~~estate is closed or, if there is no administration of the estate,~~
4-11 ~~when the proceeding in probate or to declare heirship]~~ is concluded
4-12 that it would be in the best interest of the estate or, if there is
4-13 no administration of the estate, that it would be in the best
4-14 interest of the heirs or beneficiaries of the decedent's will, the
4-15 court, in its discretion, may order the proceeding transferred to
4-16 the proper court in any other county in this State. The clerk of the
4-17 court from which the proceeding is transferred shall transmit to
4-18 the court to which the proceeding is transferred the original file
4-19 in the proceeding and a certified copy of the index.

4-20 Sec. 8B. VALIDATION OF PRIOR PROCEEDINGS [~~(d) Validation of~~
4-21 ~~Prior Proceedings~~]. When a probate proceeding is transferred to
4-22 another county under any provision of [~~this~~] Section 8 or 8A of this
4-23 Code, all orders entered in connection with the proceeding shall be
4-24 valid and shall be recognized in the second court, provided such
4-25 orders were made and entered in conformance with the procedure
4-26 prescribed by this Code.

4-27 [~~(e) Jurisdiction to Determine Venue. Any court in which~~
4-28 ~~there has been filed an application for a proceeding in probate or~~
4-29 ~~determination of heirship shall have full jurisdiction to determine~~
4-30 ~~the venue of the proceeding in probate or heirship proceeding, and~~
4-31 ~~of any proceeding relating thereto, and its determination shall not~~
4-32 ~~be subject to collateral attack.]~~

4-33 SECTION 1.07. Section 15, Texas Probate Code, is amended to
4-34 read as follows:

4-35 Sec. 15. CASE FILES. The county clerk shall maintain a case
4-36 file for each decedent's estate in which a probate proceeding has
4-37 been filed. The case file must contain all orders, judgments, and
4-38 proceedings of the court and any other probate filing with the
4-39 court, including all:

- 4-40 (1) applications for the probate of wills and for the
- 4-41 granting of administration;
- 4-42 (2) citations and notices, whether published or
- 4-43 posted, with the returns thereon;
- 4-44 (3) wills and the testimony upon which the same are
- 4-45 admitted to probate, provided that the substance only of
- 4-46 depositions shall be recorded;
- 4-47 (4) bonds and official oaths;
- 4-48 (5) inventories, appraisements, and lists of claims;
- 4-49 (5-a) affidavits in lieu of inventories, appraisements,
- 4-50 and lists of claims;
- 4-51 (6) exhibits and accounts;
- 4-52 (7) reports of hiring, renting, or sale;
- 4-53 (8) applications for sale or partition of real estate
- 4-54 and reports of sale and of commissioners of partition;
- 4-55 (9) applications for authority to execute leases for
- 4-56 mineral development, or for pooling or unitization of lands,
- 4-57 royalty, or other interest in minerals, or to lend or invest money;
- 4-58 and
- 4-59 (10) reports of lending or investing money.

4-60 SECTION 1.08. Section 37A, Texas Probate Code, is amended
4-61 by amending Subsections (h) and (i) and adding Subsections (h-1)
4-62 and (p) to read as follows:

4-63 (h) Time for Filing of Disclaimer. Unless the beneficiary
4-64 is a charitable organization or governmental agency of the state, a
4-65 written memorandum of disclaimer disclaiming a present interest
4-66 shall be filed not later than nine months after the death of the
4-67 decedent and a written memorandum of disclaimer disclaiming a
4-68 future interest may be filed not later than nine months after the
4-69 event determining that the taker of the property or interest is

5-1 finally ascertained and his interest is indefeasibly vested. If
 5-2 the beneficiary is a charitable organization or a governmental
 5-3 agency of the state, a written memorandum of disclaimer disclaiming
 5-4 a present or future interest shall be filed not later than the later
 5-5 of:

5-6 (1) the first anniversary of the date the beneficiary
 5-7 receives the notice required by Section 128A of this code; ~~[7]~~ or
 5-8 (2) the expiration of the six-month period following
 5-9 the date the personal representative files:

5-10 (A) the inventory, appraisement, and list of
 5-11 claims due or owing to the estate; or

5-12 (B) the affidavit in lieu of the inventory,
 5-13 appraisement, and list of claims ~~[, whichever occurs later]~~.

5-14 (h-1) Filing of Disclaimer. The written memorandum of
 5-15 disclaimer shall be filed in the probate court in which the
 5-16 decedent's will has been probated or in which proceedings have been
 5-17 commenced for the administration of the decedent's estate or which
 5-18 has before it an application for either of the same; provided,
 5-19 however, if the administration of the decedent's estate is closed,
 5-20 or after the expiration of one year following the date of the
 5-21 issuance of letters testamentary in an independent administration,
 5-22 or if there has been no will of the decedent probated or filed for
 5-23 probate, or if no administration of the decedent's estate has been
 5-24 commenced, or if no application for administration of the
 5-25 decedent's estate has been filed, the written memorandum of
 5-26 disclaimer shall be filed with the county clerk of the county of the
 5-27 decedent's residence, or, if the decedent is not a resident of this
 5-28 state but real property or an interest therein located in this state
 5-29 is disclaimed, a written memorandum of disclaimer shall be filed
 5-30 with the county clerk of the county in which such real property or
 5-31 interest therein is located, and recorded by such county clerk in
 5-32 the deed records of that county.

5-33 (i) Notice of Disclaimer. Unless the beneficiary is a
 5-34 charitable organization or governmental agency of the state, copies
 5-35 of any written memorandum of disclaimer shall be delivered in
 5-36 person to, or shall be mailed by registered or certified mail to and
 5-37 received by, the legal representative of the transferor of the
 5-38 interest or the holder of legal title to the property to which the
 5-39 disclaimer relates not later than nine months after the death of the
 5-40 decedent or, if the interest is a future interest, not later than
 5-41 nine months after the date the person who will receive the property
 5-42 or interest is finally ascertained and the person's interest is
 5-43 indefeasibly vested. If the beneficiary is a charitable
 5-44 organization or government agency of the state, the notices
 5-45 required by this section shall be filed not later than the later of:

5-46 (1) the first anniversary of the date the beneficiary
 5-47 receives the notice required by Section 128A of this code; ~~[7]~~ or
 5-48 (2) the expiration of the six-month period following
 5-49 the date the personal representative files:

5-50 (A) the inventory, appraisement, and list of
 5-51 claims due or owing to the estate; or

5-52 (B) the affidavit in lieu of the inventory,
 5-53 appraisement, and list of claims ~~[, whichever occurs later]~~.

5-54 (p) Extension of Time for Certain Disclaimers.
 5-55 Notwithstanding the periods prescribed by Subsections (h) and (i)
 5-56 of this section, a disclaimer with respect to an interest in
 5-57 property passing by reason of the death of a decedent dying after
 5-58 December 31, 2009, but before December 17, 2010, may be executed and
 5-59 filed, and notice of the disclaimer may be given, not later than
 5-60 nine months after December 17, 2010. A disclaimer filed and for
 5-61 which notice is given during this extended period is valid and shall
 5-62 be treated as if the disclaimer had been filed and notice had been
 5-63 given within the periods prescribed by Subsections (h) and (i) of
 5-64 this section. This subsection does not apply to a disclaimer made
 5-65 by a beneficiary that is a charitable organization or governmental
 5-66 agency of the state.

5-67 SECTION 1.09. The heading to Section 48, Texas Probate
 5-68 Code, is amended to read as follows:

5-69 Sec. 48. PROCEEDINGS TO DECLARE HEIRSHIP. ~~[WHEN AND WHERE~~

6-1 ~~INSTITUTED.]~~

6-2 SECTION 1.10. Subsection (a), Section 48, Texas Probate
6-3 Code, is amended to read as follows:

6-4 (a) When a person dies intestate owning or entitled to real
6-5 or personal property in Texas, and there shall have been no
6-6 administration in this State upon the person's [his] estate; or
6-7 when it is necessary for the trustee of a trust holding assets for
6-8 the benefit of a decedent to determine the heirs of the decedent; or
6-9 when there has been a will probated in this State or elsewhere, or
6-10 an administration in this State upon the estate of such decedent,
6-11 and any real or personal property in this State has been omitted
6-12 from such will or from such administration, or no final disposition
6-13 thereof has been made in such administration, the court of the
6-14 county in which [such proceedings were last pending, or in the event
6-15 no will of such decedent has been admitted to probate in this State,
6-16 and no administration has been granted in this State upon the estate
6-17 of such decedent, then the court of the county in which] venue would
6-18 be proper [for commencement of an administration of the decedent's
6-19 estate] under Section 6C [6] of this code[,] may determine and
6-20 declare in the manner hereinafter provided who are the heirs and
6-21 only heirs of such decedent, and their respective shares and
6-22 interests, under the laws of this State, in the estate of such
6-23 decedent or, if applicable, in the trust, and proceedings therefor
6-24 shall be known as proceedings to declare heirship.

6-25 SECTION 1.11. Subsection (a), Section 49, Texas Probate
6-26 Code, is amended to read as follows:

6-27 (a) Such proceedings may be instituted and maintained under
6-28 a circumstance specified in Section 48(a) of this code [in any of
6-29 the instances enumerated above] by the qualified personal
6-30 representative of the estate of such decedent, by a party seeking
6-31 the appointment of an independent administrator under Section 145
6-32 of this code, by the trustee of a trust holding assets for the
6-33 benefit of the decedent, by any person or persons claiming to be a
6-34 secured creditor or the owner of the whole or a part of the estate of
6-35 such decedent, or by the guardian of the estate of a ward, if the
6-36 proceedings are instituted and maintained in the probate court in
6-37 which the proceedings for the guardianship of the estate were
6-38 pending at the time of the death of the ward. In such a case an
6-39 application shall be filed in a proper court stating the following
6-40 information:

6-41 (1) the name of the decedent and the time and place of
6-42 death;

6-43 (2) the names and residences of the decedent's heirs,
6-44 the relationship of each heir to the decedent, and the true interest
6-45 of the applicant and each of the heirs in the estate of the decedent
6-46 or in the trust, as applicable;

6-47 (3) all the material facts and circumstances within
6-48 the knowledge and information of the applicant that might
6-49 reasonably tend to show the time or place of death or the names or
6-50 residences of all heirs, if the time or place of death or the names
6-51 or residences of all the heirs are not definitely known to the
6-52 applicant;

6-53 (4) a statement that all children born to or adopted by
6-54 the decedent have been listed;

6-55 (5) a statement that each marriage of the decedent has
6-56 been listed with the date of the marriage, the name of the spouse,
6-57 and if the marriage was terminated, the date and place of
6-58 termination, and other facts to show whether a spouse has had an
6-59 interest in the property of the decedent;

6-60 (6) whether the decedent died testate and if so, what
6-61 disposition has been made of the will;

6-62 (7) a general description of all the real and personal
6-63 property belonging to the estate of the decedent or held in trust
6-64 for the benefit of the decedent, as applicable; and

6-65 (8) an explanation for the omission of any of the
6-66 foregoing information that is omitted from the application.

6-67 SECTION 1.12. Section 59, Texas Probate Code, is amended by
6-68 amending Subsections (a) and (b) and adding Subsection (a-1) to
6-69 read as follows:

7-1 (a) Every last will and testament, except where otherwise
7-2 provided by law, shall be in writing and signed by the testator in
7-3 person or by another person for him by his direction and in his
7-4 presence, and shall, if not wholly in the handwriting of the
7-5 testator, be attested by two or more credible witnesses above the
7-6 age of fourteen years who shall subscribe their names thereto in
7-7 their own handwriting in the presence of the testator. Such a will
7-8 or testament may, at the time of its execution or at any subsequent
7-9 date during the lifetime of the testator and the witnesses, be made
7-10 self-proved, and the testimony of the witnesses in the probate
7-11 thereof may be made unnecessary, by the affidavits of the testator
7-12 and the attesting witnesses, made before an officer authorized to
7-13 administer oaths [~~under the laws of this State~~]. Provided that
7-14 nothing shall require an affidavit or certificate of any testator
7-15 or testatrix as a prerequisite to self-proof of a will or testament
7-16 other than the certificate set out below. The affidavits shall be
7-17 evidenced by a certificate, with official seal affixed, of such
7-18 officer attached or annexed to such will or testament in form and
7-19 contents substantially as follows:

7-20 THE STATE OF TEXAS

7-21 COUNTY OF _____

7-22 Before me, the undersigned authority, on this day personally
7-23 appeared _____, _____, and _____,
7-24 known to me to be the testator and the witnesses, respectively,
7-25 whose names are subscribed to the annexed or foregoing instrument
7-26 in their respective capacities, and, all of said persons being by me
7-27 duly sworn, the said _____, testator, declared to me and
7-28 to the said witnesses in my presence that said instrument is his
7-29 last will and testament, and that he had willingly made and executed
7-30 it as his free act and deed; and the said witnesses, each on his oath
7-31 stated to me, in the presence and hearing of the said testator, that
7-32 the said testator had declared to them that said instrument is his
7-33 last will and testament, and that he executed same as such and
7-34 wanted each of them to sign it as a witness; and upon their oaths
7-35 each witness stated further that they did sign the same as witnesses
7-36 in the presence of the said testator and at his request; that he was
7-37 at that time eighteen years of age or over (or being under such age,
7-38 was or had been lawfully married, or was then a member of the armed
7-39 forces of the United States or of an auxiliary thereof or of the
7-40 Maritime Service) and was of sound mind; and that each of said
7-41 witnesses was then at least fourteen years of age.

7-42 _____
7-43 Testator

7-44 _____
7-45 Witness

7-46 _____
7-47 Witness

7-48 Subscribed and sworn to before me by the said _____,
7-49 testator, and by the said _____ and _____,
7-50 witnesses, this _____ day of _____ A.D.

7-51 _____.
7-52 (SEAL)

7-53 (Signed) _____

7-54 (Official Capacity of Officer)

7-55 (a-1) As an alternative to the self-proving of a will by the
7-56 affidavits of the testator and the attesting witnesses under
7-57 Subsection (a) of this section, a will may be simultaneously
7-58 executed, attested, and made self-proved before an officer
7-59 authorized to administer oaths, and the testimony of the witnesses
7-60 in the probate of the will may be made unnecessary, with the
7-61 inclusion in the will of the following in form and contents
7-62 substantially as follows:

7-63 I, _____, as testator, after being duly
7-64 sworn, declare to the undersigned witnesses and to the undersigned
7-65 authority that this instrument is my will, that I have willingly
7-66 made and executed it in the presence of the undersigned witnesses,
7-67 all of whom were present at the same time, as my free act and deed,
7-68 and that I have requested each of the undersigned witnesses to sign
7-69 this will in my presence and in the presence of each other. I now

8-1 sign this will in the presence of the attesting witnesses and the
8-2 undersigned authority on this _____ day of _____,
8-3 20_____.

8-4 _____
8-5 Testator
8-6 The undersigned, _____ and _____, each being above
8-7 fourteen years of age, after being duly sworn, declare to the
8-8 testator and to the undersigned authority that the testator
8-9 declared to us that this instrument is the testator's will and that
8-10 the testator requested us to act as witnesses to the testator's will
8-11 and signature. The testator then signed this will in our presence,
8-12 all of us being present at the same time. The testator is eighteen
8-13 years of age or over (or being under such age, is or has been
8-14 lawfully married, or is a member of the armed forces of the United
8-15 States or of an auxiliary thereof or of the Maritime Service), and
8-16 we believe the testator to be of sound mind. We now sign our names
8-17 as attesting witnesses in the presence of the testator, each other,
8-18 and the undersigned authority on this _____ day of _____,
8-19 20_____.

8-20 _____
8-21 Witness

8-22 _____
8-23 Witness

8-24 Subscribed and sworn to before me by the said _____,
8-25 testator, and by the said _____ and _____,
8-26 witnesses, this _____ day of _____, 20_____.

8-27 (SEAL)
8-28 (Signed) _____

8-29 (Official Capacity of Officer)

8-30 (b) An affidavit in form and content substantially as
8-31 provided by Subsection (a) of this section is a "self-proving
8-32 affidavit." A will with a self-proving affidavit subscribed and
8-33 sworn to by the testator and witnesses attached or annexed to the
8-34 will, or a will simultaneously executed, attested, and made
8-35 self-proved as provided by Subsection (a-1) of this section, is a
8-36 "self-proved will." Substantial compliance with the form provided
8-37 by Subsection (a) or (a-1) of this section [~~form of such affidavit~~]
8-38 shall suffice to cause the will to be self-proved. For this
8-39 purpose, an affidavit that is subscribed and acknowledged by the
8-40 testator and subscribed and sworn to by the witnesses would suffice
8-41 as being in substantial compliance. A signature on a self-proving
8-42 affidavit as provided by Subsection (a) of this section is
8-43 considered a signature to the will if necessary to prove that the
8-44 will was signed by the testator or witnesses, or both, but in that
8-45 case, the will may not be considered a self-proved will.

8-46 SECTION 1.13. Section 64, Texas Probate Code, is amended to
8-47 read as follows:

8-48 Sec. 64. FORFEITURE CLAUSE. A provision in a will that
8-49 would cause a forfeiture of [~~a devise~~] or void a devise or provision
8-50 in favor of a person for bringing any court action, including
8-51 contesting a will, is unenforceable if:

- 8-52 (1) just [~~probable~~] cause existed [~~exists~~] for
- 8-53 bringing the action; and
- 8-54 (2) the action was brought and maintained in good
- 8-55 faith.

8-56 SECTION 1.14. Section 67, Texas Probate Code, is amended by
8-57 amending Subsections (a) and (b) and adding Subsection (e) to read
8-58 as follows:

8-59 (a) Whenever a pretermitted child is not mentioned in the
8-60 testator's will, provided for in the testator's will, or otherwise
8-61 provided for by the testator, the pretermitted child shall succeed
8-62 to a portion of the testator's estate as provided by Subsection
8-63 (a)(1) or (a)(2) of this section, except as limited by Subsection
8-64 (e) of this section.

8-65 (1) If the testator has one or more children living
8-66 when he executes his last will, and:

8-67 (A) No provision is made therein for any such
8-68 child, a pretermitted child succeeds to the portion of the
8-69 testator's separate and community estate to which the pretermitted

9-1 child would have been entitled pursuant to Section 38(a) of this
 9-2 code had the testator died intestate without a surviving spouse
 9-3 owning only that portion of his estate not devised or bequeathed to
 9-4 the other parent of the pretermitted child.

9-5 (B) Provision, whether vested or contingent, is
 9-6 made therein for one or more of such children, a pretermitted child
 9-7 is entitled to share in the testator's estate as follows:

9-8 (i) The portion of the testator's estate to
 9-9 which the pretermitted child is entitled is limited to the
 9-10 disposition made to children under the will.

9-11 (ii) The pretermitted child shall receive
 9-12 such share of the testator's estate, as limited in Subparagraph
 9-13 (i), as he would have received had the testator included all
 9-14 pretermitted children with the children upon whom benefits were
 9-15 conferred under the will, and given an equal share of such benefits
 9-16 to each such child.

9-17 (iii) To the extent that it is feasible, the
 9-18 interest of the pretermitted child in the testator's estate shall
 9-19 be of the same character, whether an equitable or legal life estate
 9-20 or in fee, as the interest that the testator conferred upon his
 9-21 children under the will.

9-22 (2) If the testator has no child living when he
 9-23 executes his last will, the pretermitted child succeeds to the
 9-24 portion of the testator's separate and community estate to which
 9-25 the pretermitted child would have been entitled pursuant to Section
 9-26 38(a) of this code had the testator died intestate without a
 9-27 surviving spouse owning only that portion of his estate not devised
 9-28 or bequeathed to the other parent of the pretermitted child.

9-29 (b) The pretermitted child may recover the share of the
 9-30 testator's estate to which he is entitled either from the other
 9-31 children under Subsection (a)(1)(B) or the testamentary
 9-32 beneficiaries under Subsections (a)(1)(A) and (a)(2) other than the
 9-33 other parent of the pretermitted child, ratably, out of the
 9-34 portions of such estate passing to such persons under the will. In
 9-35 abating the interests of such beneficiaries, the character of the
 9-36 testamentary plan adopted by the testator shall be preserved to the
 9-37 maximum extent possible.

9-38 (e) If a pretermitted child's other parent is not the
 9-39 surviving spouse of the testator, the portion of the testator's
 9-40 estate to which the pretermitted child is entitled under Subsection
 9-41 (a)(1)(A) or (a)(2) of this section may not reduce the portion of
 9-42 the testator's estate passing to the testator's surviving spouse by
 9-43 more than one-half.

9-44 SECTION 1.15. Subsection (a), Section 81, Texas Probate
 9-45 Code, is amended to read as follows:

9-46 (a) For Probate of a Written Will. A written will shall, if
 9-47 within the control of the applicant, be filed with the application
 9-48 for its probate, and shall remain in the custody of the county clerk
 9-49 unless removed therefrom by order of a proper court. An application
 9-50 for probate of a written will shall state:

- 9-51 (1) The name and domicile of each applicant.
- 9-52 (2) The name, age if known, and domicile of the
 9-53 decedent, and the fact, time, and place of death.
- 9-54 (3) Facts showing that the court has venue.
- 9-55 (4) That the decedent owned real or personal property,
 9-56 or both, describing the same generally, and stating its probable
 9-57 value.

9-58 (5) The date of the will, the name and residence of the
 9-59 executor named therein, if any, and if none be named, then the name
 9-60 and residence of the person to whom it is desired that letters be
 9-61 issued, and also the names and residences of the subscribing
 9-62 witnesses, if any.

9-63 (6) Whether a child or children born or adopted after
 9-64 the making of such will survived the decedent, and the name of each
 9-65 such survivor, if any.

9-66 (7) That such executor or applicant, or other person
 9-67 to whom it is desired that letters be issued, is not disqualified by
 9-68 law from accepting letters.

9-69 (8) Whether a marriage of the decedent was ever

10-1 dissolved after the will was made [~~whether by divorce, annulment,~~
10-2 ~~or a declaration that the marriage was void,~~] and if so, when and
10-3 from whom.

10-4 (9) Whether the state, a governmental agency of the
10-5 state, or a charitable organization is named by the will as a
10-6 devisee.

10-7 The foregoing matters shall be stated and averred in the
10-8 application to the extent that they are known to the applicant, or
10-9 can with reasonable diligence be ascertained by him, and if any of
10-10 such matters is not stated or averred in the application, the
10-11 application shall set forth the reason why such matter is not so
10-12 stated and averred.

10-13 SECTION 1.16. Subsection (a), Section 84, Texas Probate
10-14 Code, is amended to read as follows:

10-15 (a) Self-Proved Will. (1) If a will is self-proved as
10-16 provided in Section 59 of this Code or, if executed in another state
10-17 or a foreign country, is self-proved in accordance with the laws of
10-18 the state or foreign country of the testator's domicile at the time
10-19 of the execution, no further proof of its execution with the
10-20 formalities and solemnities and under the circumstances required to
10-21 make it a valid will shall be necessary.

10-22 (2) For purposes of Subdivision (1) of this
10-23 subsection, a will is considered self-proved if the will, or an
10-24 affidavit of the testator and attesting witnesses attached or
10-25 annexed to the will, provides that:

10-26 (A) the testator declared that the testator
10-27 signed the instrument as the testator's will, the testator signed
10-28 it willingly or willingly directed another to sign for the
10-29 testator, the testator executed the will as the testator's free and
10-30 voluntary act for the purposes expressed in the instrument, the
10-31 testator is of sound mind and under no constraint or undue
10-32 influence, and the testator is eighteen years of age or over or, if
10-33 under that age, was or had been lawfully married, or was then a
10-34 member of the armed forces of the United States, an auxiliary of the
10-35 armed forces of the United States, or the United States Maritime
10-36 Service; and

10-37 (B) the witnesses declared that the testator
10-38 signed the instrument as the testator's will, the testator signed
10-39 it willingly or willingly directed another to sign for the
10-40 testator, each of the witnesses, in the presence and hearing of the
10-41 testator, signed the will as witness to the testator's signing, and
10-42 to the best of their knowledge the testator was of sound mind and
10-43 under no constraint or undue influence, and the testator was
10-44 eighteen years of age or over or, if under that age, was or had been
10-45 lawfully married, or was then a member of the armed forces of the
10-46 United States, an auxiliary of the armed forces of the United
10-47 States, or the United States Maritime Service.

10-48 SECTION 1.17. Subsection (a), Section 89A, Texas Probate
10-49 Code, is amended to read as follows:

10-50 (a) A written will shall, if within the control of the
10-51 applicant, be filed with the application for probate as a muniment
10-52 of title, and shall remain in the custody of the county clerk unless
10-53 removed from the custody of the clerk by order of a proper court. An
10-54 application for probate of a will as a muniment of title shall
10-55 state:

10-56 (1) The name and domicile of each applicant.

10-57 (2) The name, age if known, and domicile of the
10-58 decedent, and the fact, time, and place of death.

10-59 (3) Facts showing that the court has venue.

10-60 (4) That the decedent owned real or personal property,
10-61 or both, describing the property generally, and stating its
10-62 probable value.

10-63 (5) The date of the will, the name and residence of the
10-64 executor named in the will, if any, and the names and residences of
10-65 the subscribing witnesses, if any.

10-66 (6) Whether a child or children born or adopted after
10-67 the making of such will survived the decedent, and the name of each
10-68 such survivor, if any.

10-69 (7) That there are no unpaid debts owing by the estate

of the testator, excluding debts secured by liens on real estate.

(8) Whether a marriage of the decedent was ever dissolved after the will was made [~~whether by divorce, annulment, or a declaration that the marriage was void,~~] and if so, when and from whom.

(9) Whether the state, a governmental agency of the state, or a charitable organization is named by the will as a devisee.

The foregoing matters shall be stated and averred in the application to the extent that they are known to the applicant, or can with reasonable diligence be ascertained by the applicant, and if any of such matters is not stated or averred in the application, the application shall set forth the reason why such matter is not so stated and averred.

SECTION 1.18. Section 128A, Texas Probate Code, as amended by Chapters 801 (S.B. 593) and 1170 (H.B. 391), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

Sec. 128A. NOTICE TO CERTAIN BENEFICIARIES AFTER PROBATE OF WILL. (a) In this section, "beneficiary" means a person, entity, state, governmental agency of the state, charitable organization, or trustee of a trust entitled to receive ~~[real or personal]~~ property under the terms of a decedent's will, to be determined for purposes of this section with the assumption that each person who is alive on the date of the decedent's death survives any period required to receive the bequest as specified by the terms of the will. The term does not include a person, entity, state, governmental agency of the state, charitable organization, or trustee of a trust that would be entitled to receive property under the terms of a decedent's will on the occurrence of a contingency that has not occurred as of the date of the decedent's death.

(a-1) This section does not apply to the probate of a will as a muniment of title.

(b) Except as provided by Subsection (d) of this section, not later than the 60th day after the date of an order admitting a decedent's will to probate, the personal representative of the decedent's estate, including an independent executor or independent administrator, shall give notice that complies with Subsection (e) of this section to each beneficiary named in the will whose identity and address are known to the personal representative or, through reasonable diligence, can be ascertained. If, after the 60th day after the date of the order, the personal representative becomes aware of the identity and address of a beneficiary who was not given notice on or before the 60th day, the personal representative shall give the notice as soon as possible after becoming aware of that information.

(c) Notwithstanding the requirement under Subsection (b) of this section that the personal representative give the notice to the beneficiary, the personal representative shall give the notice with respect to a beneficiary described by this subsection as follows:

(1) if the beneficiary is a trustee of a trust, to the trustee, unless the personal representative is the trustee, in which case the personal representative shall, except as provided by Subsection (c-1) of this section, give the notice to the person or class of persons first eligible to receive the trust income, to be determined for purposes of this subdivision as if the trust were in existence on the date of the decedent's death;

(2) if the beneficiary has a court-appointed guardian or conservator, to that guardian or conservator;

(3) if the beneficiary is a minor for whom no guardian or conservator has been appointed, to a parent of the minor; and

(4) if the beneficiary is a charity that for any reason cannot be notified, to the attorney general.

(c-1) The personal representative is not required to give the notice otherwise required by Subsection (c)(1) of this section to a person eligible to receive trust income at the sole discretion of the trustee of a trust if:

(1) the personal representative has given the notice

12-1 to an ancestor of the person who has a similar interest in the
12-2 trust; and
12-3 (2) no apparent conflict exists between the ancestor
12-4 and the person eligible to receive trust income.
12-5 (d) A personal representative is not required to give the
12-6 notice otherwise required by this section to a beneficiary who:
12-7 (1) has made an appearance in the proceeding with
12-8 respect to the decedent's estate before the will was admitted to
12-9 probate; ~~or~~
12-10 (2) is entitled to receive aggregate gifts under the
12-11 will with an estimated value of \$2,000 or less;
12-12 (3) has received all gifts to which the beneficiary is
12-13 entitled under the will not later than the 60th day after the date
12-14 of the order admitting the decedent's will to probate; or
12-15 (4) has received a copy of the will that was admitted
12-16 to probate or a written summary of the gifts to the beneficiary
12-17 under the will and has waived the right to receive the notice in an
12-18 instrument that:
12-19 (A) either acknowledges the receipt of the copy
12-20 of the will or includes the written summary of the gifts to the
12-21 beneficiary under the will;
12-22 (B) is signed by the beneficiary; and
12-23 (C) is filed with the court.
12-24 (e) The notice required by this section must include:
12-25 (1) ~~[state:~~
12-26 ~~[(A)]~~ the name and address of the beneficiary to
12-27 whom the notice is given or, for a beneficiary described by
12-28 Subsection (c) of this section, the name and address of the
12-29 beneficiary for whom the notice is given and of the person to whom
12-30 the notice is given;
12-31 (2) ~~[(B)]~~ the decedent's name;
12-32 (3) a statement ~~[(C)]~~ that the decedent's will has
12-33 been admitted to probate;
12-34 (4) a statement ~~[(D)]~~ that the beneficiary to whom or
12-35 for whom the notice is given is named as a beneficiary in the will;
12-36 ~~[and]~~
12-37 (5) ~~[(E)]~~ the personal representative's name and
12-38 contact information; and
12-39 (6) either:
12-40 (A) ~~[(2) contain as attachments]~~ a copy of the
12-41 will that was admitted to probate and the order admitting the will
12-42 to probate; or
12-43 (B) a summary of the gifts to the beneficiary
12-44 under the will, the court in which the will was admitted to probate,
12-45 the docket number assigned to the estate, the date the will was
12-46 admitted to probate, and, if different, the date the court
12-47 appointed the personal representative.
12-48 (f) The notice required by this section must be sent by
12-49 registered or certified mail, return receipt requested.
12-50 (g) Not later than the 90th day after the date of an order
12-51 admitting a will to probate, the personal representative shall file
12-52 with the clerk of the court in which the decedent's estate is
12-53 pending a sworn affidavit of the personal representative, or a
12-54 certificate signed by the personal representative's attorney,
12-55 stating:
12-56 (1) for each beneficiary to whom notice was required
12-57 to be given under this section, the name and address of the
12-58 beneficiary to whom the personal representative gave the notice or,
12-59 for a beneficiary described by Subsection (c) of this section, the
12-60 name and address of the beneficiary and of the person to whom the
12-61 notice was given;
12-62 (2) the name and address of each beneficiary to whom
12-63 notice was not required to be given under Subsection (d)(2), (3), or
12-64 (4) of this section ~~[who filed a waiver of the notice];~~
12-65 (3) the name of each beneficiary whose identity or
12-66 address could not be ascertained despite the personal
12-67 representative's exercise of reasonable diligence; and
12-68 (4) any other information necessary to explain the
12-69 personal representative's inability to give the notice to or for

13-1 any beneficiary as required by this section.

13-2 (h) The affidavit or certificate required by Subsection (g)
 13-3 of this section may be included with any pleading or other document
 13-4 filed with the clerk of the court, including the inventory,
 13-5 appraisal, and list of claims, an affidavit in lieu of the
 13-6 inventory, appraisal, and list of claims, or an application for
 13-7 an extension of the deadline to file the inventory, appraisal,
 13-8 and list of claims or an affidavit in lieu of the inventory,
 13-9 appraisal, and list of claims, provided that the pleading or
 13-10 other document with which the affidavit or certificate is included
 13-11 is filed not later than the date the affidavit or certificate is
 13-12 required to be filed as provided by Subsection (g) of this section.

13-13 SECTION 1.19. Section 143, Texas Probate Code, is amended
 13-14 to read as follows:

13-15 Sec. 143. SUMMARY PROCEEDINGS FOR SMALL ESTATES AFTER
 13-16 PERSONAL REPRESENTATIVE APPOINTED. Whenever, after the inventory,
 13-17 appraisal, and list of claims or the affidavit in lieu of the
 13-18 inventory, appraisal, and list of claims has been filed by a
 13-19 personal representative, it is established that the estate of a
 13-20 decedent, exclusive of the homestead and exempt property and family
 13-21 allowance to the surviving spouse and minor children, does not
 13-22 exceed the amount sufficient to pay the claims of Classes One to
 13-23 Four, inclusive, as claims are hereinafter classified, the personal
 13-24 representative shall, upon order of the court, pay the claims in the
 13-25 order provided and to the extent permitted by the assets of the
 13-26 estate subject to the payment of such claims, and thereafter
 13-27 present his account with an application for the settlement and
 13-28 allowance thereof. Thereupon the court, with or without notice,
 13-29 may adjust, correct, settle, allow or disallow such account, and,
 13-30 if the account is settled and allowed, may decree final
 13-31 distribution, discharge the personal representative, and close the
 13-32 administration.

13-33 SECTION 1.20. Subsections (g) through (j), Section 145,
 13-34 Texas Probate Code, are amended to read as follows:

13-35 (g) The court may not appoint an independent administrator
 13-36 to serve in an intestate administration unless and until the
 13-37 parties seeking appointment of the independent administrator have
 13-38 been determined, through a proceeding to declare heirship under
 13-39 Chapter III of this code, to constitute all of the decedent's heirs
 13-40 ~~[In no case shall any independent administrator be appointed by any~~
 13-41 ~~court to serve in any intestate administration until those parties~~
 13-42 ~~seeking the appointment of said independent administrator offer~~
 13-43 ~~clear and convincing evidence to the court that they constitute all~~
 13-44 ~~of the said decedent's heirs].~~

13-45 (h) When an independent administration has been created,
 13-46 and the order appointing an independent executor has been entered
 13-47 by the county court, and the inventory, appraisal, and list
 13-48 aforesaid has been filed by the executor and approved by the county
 13-49 court or an affidavit in lieu of the inventory, appraisal, and
 13-50 list of claims has been filed by the executor, as long as the estate
 13-51 is represented by an independent executor, further action of any
 13-52 nature shall not be had in the county court except where this Code
 13-53 specifically and explicitly provides for some action in the county
 13-54 court.

13-55 (i) If a distributee described in Subsections (c) through
 13-56 (e) of this section is an incapacitated person, the guardian of the
 13-57 person of the distributee may sign the application on behalf of the
 13-58 distributee. If the county court finds that either the granting of
 13-59 independent administration or the appointment of the person, firm,
 13-60 or corporation designated in the application as independent
 13-61 executor would not be in the best interests of the incapacitated
 13-62 person, then, notwithstanding anything to the contrary in
 13-63 Subsections (c) through (e) of this section, the county court shall
 13-64 not enter an order granting independent administration of the
 13-65 estate. If such distributee who is an incapacitated person has no
 13-66 guardian of the person, the county court may appoint a guardian ad
 13-67 litem to make application on behalf of the incapacitated person if
 13-68 the county court considers such an appointment necessary to protect
 13-69 the interest of the distributees. Alternatively, if the

14-1 distributee who is an incapacitated person is a minor and has no
 14-2 guardian of the person, the natural guardian or guardians of the
 14-3 minor may consent on the minor's behalf if there is no conflict of
 14-4 interest between the minor and the natural guardian or guardians.

14-5 (j) If a trust is created in the decedent's will, the person
 14-6 or class of persons first eligible to receive the income from the
 14-7 trust, when determined as if the trust were to be in existence on
 14-8 the date of the decedent's death, shall, for the purposes of
 14-9 Subsections (c) and (d) of this section, be deemed to be the
 14-10 distributee or distributees on behalf of such trust, and any other
 14-11 trust or trusts coming into existence upon the termination of such
 14-12 trust, and are authorized to apply for independent administration
 14-13 on behalf of the trusts without the consent or agreement of the
 14-14 trustee or any other beneficiary of the trust, or the trustee or any
 14-15 beneficiary of any other trust which may come into existence upon
 14-16 the termination of such trust. If a trust beneficiary who is
 14-17 considered to be a distributee under this subsection is an
 14-18 incapacitated person, the trustee or cotrustee may file the
 14-19 application or give the consent, provided that the trustee or
 14-20 cotrustee is not the person proposed to serve as the independent
 14-21 executor.

14-22 SECTION 1.21. Part 4, Chapter VI, Texas Probate Code, is
 14-23 amended by adding Sections 145A, 145B, and 145C to read as follows:

14-24 Sec. 145A. GRANTING POWER OF SALE BY AGREEMENT. In a
 14-25 situation in which a decedent does not have a will or a decedent's
 14-26 will does not contain language authorizing the personal
 14-27 representative to sell real property or contains language that is
 14-28 not sufficient to grant the representative that authority, the
 14-29 court may include in an order appointing an independent executor
 14-30 under Section 145 of this code any general or specific authority
 14-31 regarding the power of the independent executor to sell real
 14-32 property that may be consented to by the beneficiaries who are to
 14-33 receive any interest in the real property in the application for
 14-34 independent administration or in their consents to the independent
 14-35 administration. The independent executor, in such event, may sell
 14-36 the real property under the authority granted in the court order
 14-37 without the further consent of those beneficiaries.

14-38 Sec. 145B. INDEPENDENT EXECUTORS MAY ACT WITHOUT COURT
 14-39 APPROVAL. Unless this code specifically provides otherwise, any
 14-40 action that a personal representative subject to court supervision
 14-41 may take with or without a court order may be taken by an
 14-42 independent executor without a court order. The other provisions
 14-43 of this part are designed to provide additional guidance regarding
 14-44 independent administrations in specified situations, and are not
 14-45 designed to limit by omission or otherwise the application of the
 14-46 general principles set forth in this part.

14-47 Sec. 145C. POWER OF SALE OF ESTATE PROPERTY.
 14-48 (a) Definition. In this section, "independent executor" does not
 14-49 include an independent administrator.

14-50 (b) General. Unless limited by the terms of a will, an
 14-51 independent executor, in addition to any power of sale of estate
 14-52 property given in the will, and an independent administrator have
 14-53 the same power of sale for the same purposes as a personal
 14-54 representative has in a supervised administration, but without the
 14-55 requirement of court approval. The procedural requirements
 14-56 applicable to a supervised administration do not apply.

14-57 (c) Protection of Person Purchasing Estate Property.
 14-58 (1) A person who is not a devisee or heir is not required to
 14-59 inquire into the power of sale of estate property of the independent
 14-60 executor or independent administrator or the propriety of the
 14-61 exercise of the power of sale if the person deals with the
 14-62 independent executor or independent administrator in good faith
 14-63 and:

14-64 (A) a power of sale is granted to the independent
 14-65 executor in the will;

14-66 (B) a power of sale is granted under Section 145A
 14-67 of this code in the court order appointing the independent executor
 14-68 or independent administrator; or

14-69 (C) the independent executor or independent

15-1 administrator provides an affidavit, executed and sworn to under
 15-2 oath and recorded in the deed records of the county where the
 15-3 property is located, that the sale is necessary or advisable for any
 15-4 of the purposes described in Section 341(1) of this code.

15-5 (2) As to acts undertaken in good faith reliance, the
 15-6 affidavit described by Subsection (c)(1)(C) of this section is
 15-7 conclusive proof, as between a purchaser of property from an
 15-8 estate, and the personal representative of the estate or the heirs
 15-9 and distributees of the estate, with respect to the authority of the
 15-10 independent executor or independent administrator to sell the
 15-11 property. The signature or joinder of a devisee or heir who has an
 15-12 interest in the property being sold as described in this section is
 15-13 not necessary for the purchaser to obtain all right, title, and
 15-14 interest of the estate in the property being sold.

15-15 (3) This section does not relieve the independent
 15-16 executor or independent administrator from any duty owed to a
 15-17 devisee or heir in relation, directly or indirectly, to the sale.

15-18 (d) No Limitations. This section does not limit the
 15-19 authority of an independent executor or independent administrator
 15-20 to take any other action without court supervision or approval with
 15-21 respect to estate assets that may take place in a supervised
 15-22 administration, for purposes and within the scope otherwise
 15-23 authorized by this code, including the authority to enter into a
 15-24 lease and to borrow money.

15-25 SECTION 1.22. Section 146, Texas Probate Code, is amended
 15-26 by adding Subsections (a-1) and (b-1) through (b-7) and amending
 15-27 Subsection (b) to read as follows:

15-28 (a-1) Statement in Notice of Claim. To be effective, the
 15-29 notice provided under Subsection (a)(2) of this section must
 15-30 include, in addition to the other information required by Section
 15-31 294(d) of this code, a statement that a claim may be effectively
 15-32 presented by only one of the methods prescribed by this section.

15-33 (b) Secured Claims for Money. Within six months after the
 15-34 date letters are granted or within four months after the date notice
 15-35 is received under Section 295 of this code, whichever is later, a
 15-36 creditor with a claim for money secured by real or personal property
 15-37 of the estate must give notice to the independent executor of the
 15-38 creditor's election to have the creditor's claim approved as a
 15-39 matured secured claim to be paid in due course of administration.
 15-40 In addition to giving the notice within this period, a creditor
 15-41 whose claim is secured by real property shall record a notice of the
 15-42 creditor's election under this subsection in the deed records of
 15-43 the county in which the real property is located. If no [the]
 15-44 election to be a matured secured creditor is made, or the election
 15-45 is made, but not within the prescribed period, or is made within the
 15-46 prescribed period but the creditor has a lien against real property
 15-47 and fails to record notice of the claim in the deed records as
 15-48 required within the prescribed period [is not made], the claim
 15-49 shall be [is] a preferred debt and lien against the specific
 15-50 property securing the indebtedness and shall be paid according to
 15-51 the terms of the contract that secured the lien, and the claim may
 15-52 not be asserted against other assets of the estate. The independent
 15-53 executor may pay the claim before the claim matures if paying the
 15-54 claim before maturity is in the best interest of the estate.

15-55 (b-1) Matured Secured Claims. (1) A claim approved as a
 15-56 matured secured claim under Subsection (b) of this section remains
 15-57 secured by any lien or security interest against the specific
 15-58 property securing payment of the claim but subordinated to the
 15-59 payment from the property of claims having a higher classification
 15-60 under Section 322 of this code. However, the secured creditor:

15-61 (A) is not entitled to exercise any remedies in a
 15-62 manner that prevents the payment of the higher priority claims and
 15-63 allowances; and

15-64 (B) during the administration of the estate, is
 15-65 not entitled to exercise any contractual collection rights,
 15-66 including the power to foreclose, without either the prior written
 15-67 approval of the independent executor or court approval.

15-68 (2) Subdivision (1) of this subsection may not be
 15-69 construed to suspend or otherwise prevent a creditor with a matured

16-1 secured claim from seeking judicial relief of any kind or from
 16-2 executing any judgment against an independent executor. Except
 16-3 with respect to real property, any third party acting in good faith
 16-4 may obtain good title with respect to an estate asset acquired
 16-5 through a secured creditor's extrajudicial collection rights,
 16-6 without regard to whether the creditor had the right to collect the
 16-7 asset or whether the creditor acted improperly in exercising those
 16-8 rights during an estate administration due to having elected
 16-9 matured secured status.

16-10 (3) If a claim approved or established by suit as a
 16-11 matured secured claim is secured by property passing to one or more
 16-12 devisees in accordance with Section 71A of this code, the
 16-13 independent executor shall collect from the devisees the amount of
 16-14 the debt and pay that amount to the claimant or shall sell the
 16-15 property and pay out of the sale proceeds the claim and associated
 16-16 expenses of sale consistent with the provisions of Section 306(c-1)
 16-17 of this code applicable to court supervised administrations.

16-18 (b-2) Preferred Debt and Lien Claims. During an independent
 16-19 administration, a secured creditor whose claim is a preferred debt
 16-20 and lien against property securing the indebtedness under
 16-21 Subsection (b) of this section is free to exercise any judicial or
 16-22 extrajudicial collection rights, including the right to
 16-23 foreclosure and execution; provided, however, that the creditor
 16-24 does not have the right to conduct a nonjudicial foreclosure sale
 16-25 within six months after letters are granted.

16-26 (b-3) Certain Unsecured Claims; Barring of Claims. An
 16-27 unsecured creditor who has a claim for money against an estate and
 16-28 who receives a notice under Section 294(d) of this code shall give
 16-29 to the independent executor notice of the nature and amount of the
 16-30 claim not later than the 120th day after the date the notice is
 16-31 received or the claim is barred.

16-32 (b-4) Notices Required by Creditors. Notice to the
 16-33 independent executor required by Subsections (b) and (b-3) of this
 16-34 section must be contained in:

16-35 (1) a written instrument that is hand-delivered with
 16-36 proof of receipt, or mailed by certified mail, return receipt
 16-37 requested with proof of receipt, to the independent executor or the
 16-38 executor's attorney;

16-39 (2) a pleading filed in a lawsuit with respect to the
 16-40 claim; or

16-41 (3) a written instrument or pleading filed in the
 16-42 court in which the administration of the estate is pending.

16-43 (b-5) Filing Requirements Applicable. Subsection (b-4) of
 16-44 this section does not exempt a creditor who elects matured secured
 16-45 status from the filing requirements of Subsection (b) of this
 16-46 section, to the extent those requirements are applicable.

16-47 (b-6) Statute of Limitations. Except as otherwise provided
 16-48 by Section 16.062, Civil Practice and Remedies Code, the running of
 16-49 the statute of limitations shall be tolled only by a written
 16-50 approval of a claim signed by an independent executor, a pleading
 16-51 filed in a suit pending at the time of the decedent's death, or a
 16-52 suit brought by the creditor against the independent executor. In
 16-53 particular, the presentation of a statement or claim, or a notice
 16-54 with respect to a claim, to an independent executor does not toll
 16-55 the running of the statute of limitations with respect to that
 16-56 claim.

16-57 (b-7) Other Claim Procedures of Code Generally Do Not Apply.
 16-58 Except as otherwise provided by this section, the procedural
 16-59 provisions of this code governing creditor claims in supervised
 16-60 administrations do not apply to independent administrations. By
 16-61 way of example, but not as a limitation:

16-62 (1) Section 313 of this code does not apply to
 16-63 independent administrations, and consequently a creditor's claim
 16-64 may not be barred solely because the creditor failed to file a suit
 16-65 not later than the 90th day after the date an independent executor
 16-66 rejected the claim or with respect to a claim for which the
 16-67 independent executor takes no action; and

16-68 (2) Sections 306(f)-(k) of this code do not apply to
 16-69 independent administrations.

17-1 SECTION 1.23. Subsection (a), Section 149B, Texas Probate
 17-2 Code, is amended to read as follows:

17-3 (a) In addition to or in lieu of the right to an accounting
 17-4 provided by Section 149A of this code, at any time after the
 17-5 expiration of two years from the date the court clerk first issues
 17-6 letters testamentary or of administration to any personal
 17-7 representative of an estate [~~that an independent administration was~~
 17-8 ~~created and the order appointing an independent executor was~~
 17-9 ~~entered~~], a person interested in the estate then subject to
 17-10 independent administration may petition the county court, as that
 17-11 term is defined by Section 3 of this code, for an accounting and
 17-12 distribution. The court may order an accounting to be made with the
 17-13 court by the independent executor at such time as the court deems
 17-14 proper. The accounting shall include the information that the
 17-15 court deems necessary to determine whether any part of the estate
 17-16 should be distributed.

17-17 SECTION 1.24. Subsection (a), Section 149C, Texas Probate
 17-18 Code, is amended to read as follows:

17-19 (a) The county court, as that term is defined by Section 3 of
 17-20 this code, on its own motion or on motion of any interested person,
 17-21 after the independent executor has been cited by personal service
 17-22 to answer at a time and place fixed in the notice, may remove an
 17-23 independent executor when:

17-24 (1) the independent executor fails to return within
 17-25 ninety days after qualification, unless such time is extended by
 17-26 order of the court, either an inventory of the property of the
 17-27 estate and list of claims that have come to the independent
 17-28 executor's knowledge or an affidavit in lieu of the inventory,
 17-29 appraisement, and list of claims;

17-30 (2) sufficient grounds appear to support belief that
 17-31 the independent executor has misapplied or embezzled, or that the
 17-32 independent executor is about to misapply or embezzle, all or any
 17-33 part of the property committed to the independent executor's care;

17-34 (3) the independent executor fails to make an
 17-35 accounting which is required by law to be made;

17-36 (4) the independent executor fails to timely file the
 17-37 affidavit or certificate required by Section 128A of this code;

17-38 (5) the independent executor is proved to have been
 17-39 guilty of gross misconduct or gross mismanagement in the
 17-40 performance of the independent executor's duties; or

17-41 (6) the independent executor becomes an incapacitated
 17-42 person, or is sentenced to the penitentiary, or from any other cause
 17-43 becomes legally incapacitated from properly performing the
 17-44 independent executor's fiduciary duties.

17-45 SECTION 1.25. Section 151, Texas Probate Code, is amended
 17-46 to read as follows:

17-47 Sec. 151. CLOSING INDEPENDENT ADMINISTRATION BY CLOSING
 17-48 REPORT OR NOTICE OF CLOSING ESTATE [AFFIDAVIT]. (a) Filing of
 17-49 Closing Report or Notice of Closing Estate [Affidavit]. When all of
 17-50 the debts known to exist against the estate have been paid, or when
 17-51 they have been paid so far as the assets in the hands of the
 17-52 independent executor will permit, when there is no pending
 17-53 litigation, and when the independent executor has distributed to
 17-54 the persons entitled thereto all assets of the estate, if any,
 17-55 remaining after payment of debts, the independent executor may file
 17-56 with the court a closing report or a notice of closing of the
 17-57 estate.

17-58 (a-1) Closing Report. An independent executor may file [+
 17-59 [~~(1)~~] a closing report verified by affidavit that:

17-60 (1) shows:
 17-61 (A) the [~~(i) The~~] property of the estate which
 17-62 came into the possession [~~hands~~] of the independent executor;
 17-63 (B) the [~~(ii) The~~] debts that have been paid;
 17-64 (C) the [~~(iii) The~~] debts, if any, still owing by
 17-65 the estate;

17-66 (D) the [~~(iv) The~~] property of the estate, if
 17-67 any, remaining on hand after payment of debts; and

17-68 (E) the [~~(v) The~~] names and residences of the
 17-69 persons to whom the property of the estate, if any, remaining on

18-1 hand after payment of debts has been distributed; and
 18-2 (2) includes signed receipts or other proof of
 18-3 delivery of property to the distributees named in the closing
 18-4 report if the closing report reflects that there was property
 18-5 remaining on hand after payment of debts.

18-6 (b) Notice of Closing Estate. (1) Instead of filing a
 18-7 closing report under Subsection (a-1) of this section, an
 18-8 independent executor may file a notice of closing estate verified
 18-9 by affidavit that states:

18-10 (A) that all debts known to exist against the
 18-11 estate have been paid or have been paid to the extent permitted by
 18-12 the assets in the independent executor's possession;

18-13 (B) that all remaining assets of the estate, if
 18-14 any, have been distributed; and

18-15 (C) the names and addresses of the distributees
 18-16 to whom the property of the estate, if any, remaining on hand after
 18-17 payment of debts has been distributed.

18-18 (2) Before filing the notice, the independent executor
 18-19 shall provide to each distributee of the estate a copy of the notice
 18-20 of closing estate. The notice of closing estate filed by the
 18-21 independent executor must include signed receipts or other proof
 18-22 that all distributees have received a copy of the notice of closing
 18-23 estate.

18-24 (c) Effect of Filing Closing Report or Notice of Closing
 18-25 Estate [the Affidavit]. (1) The independent administration of an
 18-26 estate is considered closed 30 days after the date of the filing of
 18-27 a closing report or notice of closing estate unless an interested
 18-28 person files an objection with the court within that time. If an
 18-29 interested person files an objection within the 30-day period, the
 18-30 independent administration of the estate is closed when the
 18-31 objection has been disposed of or the court signs an order closing
 18-32 the estate.

18-33 (2) The closing of an [filing of such an affidavit and
 18-34 proof of delivery, if required, shall terminate the] independent
 18-35 administration by filing of a closing report or notice of closing
 18-36 estate terminates [and] the power and authority of the independent
 18-37 executor, but shall not relieve the independent executor from
 18-38 liability for any mismanagement of the estate or from liability for
 18-39 any false statements contained in the report or notice [affidavit].

18-40 (3) When a closing report or notice of closing estate
 18-41 [such an affidavit] has been filed, persons dealing with properties
 18-42 of the estate, or with claims against the estate, shall deal
 18-43 directly with the distributees of the estate; and the acts of the
 18-44 [such] distributees with respect to the [such] properties or claims
 18-45 shall in all ways be valid and binding as regards the persons with
 18-46 whom they deal, notwithstanding any false statements made by the
 18-47 independent executor in the report or notice [such affidavit].

18-48 (4) ~~(2)~~ If the independent executor is required to
 18-49 give bond, the independent executor's filing of the closing report
 18-50 [affidavit] and proof of delivery, if required, automatically
 18-51 releases the sureties on the bond from all liability for the future
 18-52 acts of the principal. The filing of a notice of closing estate
 18-53 does not release the sureties on the bond of an independent
 18-54 executor.

18-55 (d) ~~(c)~~ Authority to Transfer Property of a Decedent
 18-56 After Filing the Closing Report or Notice of Closing Estate
 18-57 [Affidavit]. An independent executor's closing report or notice of
 18-58 closing estate [affidavit closing the independent administration]
 18-59 shall constitute sufficient legal authority to all persons owing
 18-60 any money, having custody of any property, or acting as registrar or
 18-61 transfer agent or trustee of any evidence of interest,
 18-62 indebtedness, property, or right that belongs to the estate, for
 18-63 payment or transfer without additional administration to the
 18-64 distributees [persons] described in the will as entitled to receive
 18-65 the particular asset or who as heirs at law are entitled to receive
 18-66 the asset. The distributees [persons] described in the will as
 18-67 entitled to receive the particular asset or the heirs at law
 18-68 entitled to receive the asset may enforce their right to the payment
 18-69 or transfer by suit.

19-1 (e) [~~(d)~~] Delivery Subject to Receipt or Proof of Delivery.
 19-2 An independent executor may not be required to deliver tangible or
 19-3 intangible personal property to a distributee unless the
 19-4 independent executor receives [~~shall receive~~], at or before the
 19-5 time of delivery of the property, a signed receipt or other proof of
 19-6 delivery of the property to the distributee. An independent
 19-7 executor may [~~shall~~] not require a waiver or release from the
 19-8 distributee as a condition of delivery of property to a
 19-9 distributee.

19-10 SECTION 1.26. Section 227, Texas Probate Code, is amended
 19-11 to read as follows:

19-12 Sec. 227. SUCCESSORS RETURN OF INVENTORY, APPRAISEMENT, AND
 19-13 LIST OF CLAIMS OR AFFIDAVIT IN LIEU OF INVENTORY, APPRAISEMENT, AND
 19-14 LIST OF CLAIMS. An appointee who has been qualified to succeed to a
 19-15 prior personal representative shall make and return to the court an
 19-16 inventory, appraisal, and list of claims of the estate or, if the
 19-17 appointee is an independent executor, shall make and return to the
 19-18 court that document or file an affidavit in lieu of the inventory,
 19-19 appraisal, and list of claims, within ninety days after being
 19-20 qualified, in like manner as is provided for [~~required of~~] original
 19-21 appointees; and he shall also in like manner return additional
 19-22 inventories, appraisements, and lists of claims or file additional
 19-23 affidavits. In all orders appointing successor representatives of
 19-24 estates, the court shall appoint appraisers as in original
 19-25 appointments upon the application of any person interested in the
 19-26 estate.

19-27 SECTION 1.27. Section 250, Texas Probate Code, is amended
 19-28 to read as follows:

19-29 Sec. 250. INVENTORY AND APPRAISEMENT; AFFIDAVIT IN LIEU OF
 19-30 INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS. (a) Within ninety
 19-31 days after the representative's [~~his~~] qualification, unless a
 19-32 longer time shall be granted by the court, the representative shall
 19-33 prepare and file with the clerk of court a verified, full, and
 19-34 detailed inventory, in one written instrument, of all the property
 19-35 of such estate which has come to the representative's [~~his~~]
 19-36 possession or knowledge, which inventory shall include:

19-37 (1) [~~(a)~~] all real property of the estate situated in
 19-38 the State of Texas; and

19-39 (2) [~~(b)~~] all personal property of the estate wherever
 19-40 situated.

19-41 (b) The representative shall set out in the inventory the
 19-42 representative's [~~his~~] appraisal of the fair market value of
 19-43 each item thereof as of the date of death in the case of grant of
 19-44 letters testamentary or of administration, as the case may be;
 19-45 provided that if the court shall appoint an appraiser or appraisers
 19-46 of the estate, the representative shall determine the fair market
 19-47 value of each item of the inventory with the assistance of such
 19-48 appraiser or appraisers and shall set out in the inventory such
 19-49 appraisal. The inventory shall specify what portion of the
 19-50 property, if any, is separate property and what portion, if any, is
 19-51 community property. [~~If any property is owned in common with~~
 19-52 ~~others, the interest owned by the estate shall be shown, together~~
 19-53 ~~with the names and relationship, if known, of co-owners.] Such
 19-54 inventory, when approved by the court and duly filed with the clerk
 19-55 of court, shall constitute for all purposes the inventory and
 19-56 appraisal of the estate referred to in this Code. The court for
 19-57 good cause shown may require the filing of the inventory and
 19-58 appraisal at a time prior to ninety days after the qualification
 19-59 of the representative.~~

19-60 (c) Notwithstanding Subsection (a) of this section, if
 19-61 there are no unpaid debts, except for secured debts, taxes, and
 19-62 administration expenses, at the time the inventory is due,
 19-63 including any extensions, an independent executor may file with the
 19-64 court clerk, in lieu of the inventory, appraisal, and list of
 19-65 claims, an affidavit stating that all debts, except for secured
 19-66 debts, taxes, and administration expenses, are paid and that all
 19-67 beneficiaries have received a verified, full, and detailed
 19-68 inventory. The affidavit in lieu of the inventory, appraisal,
 19-69 and list of claims must be filed within the 90-day period prescribed

20-1 by Subsection (a) of this section, unless the court grants an
 20-2 extension.

20-3 (d) In this section, "beneficiary" means a person, entity,
 20-4 state, governmental agency of the state, charitable organization,
 20-5 or trust entitled to receive real or personal property:

20-6 (1) under the terms of a decedent's will, to be
 20-7 determined for purposes of this subsection with the assumption that
 20-8 each person who is alive on the date of the decedent's death
 20-9 survives any period required to receive the bequest as specified by
 20-10 the terms of the will; or

20-11 (2) as an heir of the decedent.

20-12 (e) If the independent executor files an affidavit in lieu
 20-13 of filing an inventory, appraisalment, and list of claims as
 20-14 authorized under Subsection (c) of this section:

20-15 (1) any person interested in the estate, including a
 20-16 possible heir of the decedent or a beneficiary under a prior will of
 20-17 the decedent, is entitled to receive a copy of the inventory,
 20-18 appraisalment, and list of claims from the independent executor on
 20-19 written request;

20-20 (2) the independent executor may provide a copy of the
 20-21 inventory, appraisalment, and list of claims to any person the
 20-22 independent executor believes in good faith may be a person
 20-23 interested in the estate without liability to the estate or its
 20-24 beneficiaries; and

20-25 (3) a person interested in the estate may apply to the
 20-26 court for an order compelling compliance with Subdivision (1) of
 20-27 this subsection and the court, in its discretion, may compel the
 20-28 independent executor to provide a copy of the inventory,
 20-29 appraisalment, and list of claims to the interested person or may
 20-30 deny the application.

20-31 SECTION 1.28. Section 256, Texas Probate Code, is amended
 20-32 to read as follows:

20-33 Sec. 256. DISCOVERY OF ADDITIONAL PROPERTY. (a) If, after
 20-34 the filing of the inventory and appraisalment, property or claims
 20-35 not included in the inventory shall come to the possession or
 20-36 knowledge of the representative, the representative ~~he~~ shall
 20-37 forthwith file with the clerk of court a verified, full, and
 20-38 detailed supplemental inventory and appraisalment.

20-39 (b) If, after the filing of an affidavit in lieu of the
 20-40 inventory and appraisalment, property or claims not included in the
 20-41 inventory given to the beneficiaries shall come to the possession
 20-42 or knowledge of the representative, the representative shall
 20-43 forthwith file with the clerk of court a supplemental affidavit in
 20-44 lieu of the inventory and appraisalment stating that all
 20-45 beneficiaries have received a verified, full, and detailed
 20-46 supplemental inventory and appraisalment.

20-47 SECTION 1.29. Section 260, Texas Probate Code, is amended
 20-48 to read as follows:

20-49 Sec. 260. FAILURE OF JOINT PERSONAL REPRESENTATIVES TO
 20-50 RETURN AN INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS OR AFFIDAVIT
 20-51 IN LIEU OF INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS. If there be
 20-52 more than one representative qualified as such, any one or more of
 20-53 them, on the neglect of the others, may make and return an inventory
 20-54 and appraisalment and list of claims or file an affidavit in lieu of
 20-55 an inventory, appraisalment, and list of claims; and the
 20-56 representative so neglecting shall not thereafter interfere with
 20-57 the estate or have any power over same; but the representative so
 20-58 returning the inventory, appraisalment, and list of claims or filing
 20-59 the affidavit in lieu of an inventory, appraisalment, and list of
 20-60 claims shall have the whole administration, unless, within sixty
 20-61 days after the return or the filing, the delinquent or delinquents
 20-62 shall assign to the court in writing and under oath a reasonable
 20-63 excuse which the court may deem satisfactory; and if no excuse is
 20-64 filed or if the excuse filed is not deemed sufficient, the court
 20-65 shall enter an order removing any and all such delinquents and
 20-66 revoking their letters.

20-67 SECTION 1.30. Subsections (a) and (b), Section 271, Texas
 20-68 Probate Code, are amended to read as follows:

20-69 (a) Unless an affidavit is filed under Subsection (b) of

21-1 this section, immediately after the inventory, appraisalment, and
 21-2 list of claims have been approved or after the affidavit in lieu of
 21-3 the inventory, appraisalment, and list of claims has been filed, the
 21-4 court shall, by order, set apart:

21-5 (1) the homestead for the use and benefit of the
 21-6 surviving spouse and minor children; and

21-7 (2) all other property of the estate that is exempt
 21-8 from execution or forced sale by the constitution and laws of this
 21-9 state for the use and benefit of the surviving spouse and minor
 21-10 children and unmarried children remaining with the family of the
 21-11 deceased.

21-12 (b) Before the approval of the inventory, appraisalment, and
 21-13 list of claims or, if applicable, before the filing of the affidavit
 21-14 in lieu of the inventory, appraisalment, and list of claims:

21-15 (1) a surviving spouse or any person who is authorized
 21-16 to act on behalf of minor children of the deceased may apply to the
 21-17 court to have exempt property, including the homestead, set aside
 21-18 by filing an application and a verified affidavit listing all of the
 21-19 property that the applicant claims is exempt; and

21-20 (2) any unmarried children remaining with the family
 21-21 of the deceased may apply to the court to have all exempt property
 21-22 other than the homestead set aside by filing an application and a
 21-23 verified affidavit listing all of the other property that the
 21-24 applicant claims is exempt.

21-25 SECTION 1.31. Section 286, Texas Probate Code, is amended
 21-26 to read as follows:

21-27 Sec. 286. FAMILY ALLOWANCE TO SURVIVING SPOUSES AND MINORS.

21-28 (a) Unless an affidavit is filed under Subsection (b) of this
 21-29 section, immediately after the inventory, appraisalment, and list of
 21-30 claims have been approved or the affidavit in lieu of the inventory,
 21-31 appraisalment, and list of claims has been filed, the court shall fix
 21-32 a family allowance for the support of the surviving spouse and minor
 21-33 children of the deceased.

21-34 (b) Before the approval of the inventory, appraisalment, and
 21-35 list of claims or, if applicable, before the filing of the affidavit
 21-36 in lieu of the inventory, appraisalment, and list of claims, a
 21-37 surviving spouse or any person who is authorized to act on behalf of
 21-38 minor children of the deceased may apply to the court to have the
 21-39 court fix the family allowance by filing an application and a
 21-40 verified affidavit describing the amount necessary for the
 21-41 maintenance of the surviving spouse and minor children for one year
 21-42 after the date of the death of the decedent and describing the
 21-43 spouse's separate property and any property that minor children
 21-44 have in their own right. The applicant bears the burden of proof by
 21-45 a preponderance of the evidence at any hearing on the application.
 21-46 The court shall fix a family allowance for the support of the
 21-47 surviving spouse and minor children of the deceased.

21-48 SECTION 1.32. Section 293, Texas Probate Code, is amended
 21-49 to read as follows:

21-50 Sec. 293. SALE TO RAISE FUNDS FOR FAMILY ALLOWANCE. If
 21-51 there be no personal property of the deceased that the surviving
 21-52 spouse or guardian is willing to take for such allowance, or not a
 21-53 sufficiency of them, and if there be no funds or not sufficient
 21-54 funds in the hands of such executor or administrator to pay such
 21-55 allowance, or any part thereof, then the court, as soon as the
 21-56 inventory, appraisalment, and list of claims are returned and
 21-57 approved or, if applicable, the affidavit in lieu of the inventory,
 21-58 appraisalment, and list of claims is filed, shall order a sale of so
 21-59 much of the estate for cash as will be sufficient to raise the
 21-60 amount of such allowance, or a part thereof, as the case requires.

21-61 SECTION 1.33. The heading to Section 322, Texas Probate
 21-62 Code, is amended to read as follows:

21-63 Sec. 322. CLASSIFICATION OF CLAIMS AGAINST ESTATE [~~ESTATES~~]
 21-64 OF DECEDENT.

21-65 SECTION 1.34. Subsection (a), Section 385, Texas Probate
 21-66 Code, is amended to read as follows:

21-67 (a) Application for Partition. When a husband or wife shall
 21-68 die leaving any community property, the survivor may, at any time
 21-69 after letters testamentary or of administration have been granted,

22-1 and an inventory, appraisement, and list of the claims of the estate
 22-2 have been returned or an affidavit in lieu of the inventory,
 22-3 appraisement, and list of claims has been filed, make application
 22-4 in writing to the court which granted such letters for a partition
 22-5 of such community property.

22-6 SECTION 1.35. Section 436, Texas Probate Code, is amended
 22-7 by adding Subdivision (2-a) and amending Subdivisions (7) and (11)
 22-8 to read as follows:

22-9 (2-a) "Charitable organization" means any
 22-10 corporation, community chest, fund, or foundation that is exempt
 22-11 from federal income tax under Section 501(a) of the Internal
 22-12 Revenue Code of 1986 by being listed as an exempt organization in
 22-13 Section 501(c)(3) of that code.

22-14 (7) "Party" means a person who, by the terms of the
 22-15 account, has a present right, subject to request, to payment from a
 22-16 multiple-party account. A P.O.D. payee, including a charitable
 22-17 organization, or beneficiary of a trust account is a party only
 22-18 after the account becomes payable to the P.O.D payee or beneficiary
 22-19 [him] by reason of the P.O.D payee or beneficiary [his] surviving
 22-20 the original payee or trustee. Unless the context otherwise
 22-21 requires, it includes a guardian, personal representative, or
 22-22 assignee, including an attaching creditor, of a party. It also
 22-23 includes a person identified as a trustee of an account for another
 22-24 whether or not a beneficiary is named, but it does not include a
 22-25 named beneficiary unless the beneficiary has a present right of
 22-26 withdrawal.

22-27 (11) "P.O.D. payee" means a person or charitable
 22-28 organization designated on a P.O.D. account as one to whom the
 22-29 account is payable on request after the death of one or more
 22-30 persons.

22-31 SECTION 1.36. Subsection (a), Section 439, Texas Probate
 22-32 Code, is amended to read as follows:

22-33 (a) Sums remaining on deposit at the death of a party to a
 22-34 joint account belong to the surviving party or parties against the
 22-35 estate of the decedent if, by a written agreement signed by the
 22-36 party who dies, the interest of such deceased party is made to
 22-37 survive to the surviving party or parties. Notwithstanding any
 22-38 other law, an agreement is sufficient to confer an absolute right of
 22-39 survivorship on parties to a joint account under this subsection if
 22-40 the agreement states in substantially the following form: "On the
 22-41 death of one party to a joint account, all sums in the account on the
 22-42 date of the death vest in and belong to the surviving party as his or
 22-43 her separate property and estate." A survivorship agreement will
 22-44 not be inferred from the mere fact that the account is a joint
 22-45 account or that the account is designated as JT TEN, Joint Tenancy,
 22-46 or joint, or with other similar language. If there are two or more
 22-47 surviving parties, their respective ownerships during lifetime
 22-48 shall be in proportion to their previous ownership interests under
 22-49 Section 438 of this code augmented by an equal share for each
 22-50 survivor of any interest the decedent may have owned in the account
 22-51 immediately before his death, and the right of survivorship
 22-52 continues between the surviving parties if a written agreement
 22-53 signed by a party who dies so provides.

22-54 SECTION 1.37. Section 452, Texas Probate Code, is amended
 22-55 to read as follows:

22-56 Sec. 452. FORMALITIES. (a) An agreement between spouses
 22-57 creating a right of survivorship in community property must be in
 22-58 writing and signed by both spouses. If an agreement in writing is
 22-59 signed by both spouses, the agreement shall be sufficient to create
 22-60 a right of survivorship in the community property described in the
 22-61 agreement if it includes any of the following phrases:

- 22-62 (1) "with right of survivorship";
- 22-63 (2) "will become the property of the survivor";
- 22-64 (3) "will vest in and belong to the surviving spouse";

22-65 or

- 22-66 (4) "shall pass to the surviving spouse."

22-67 (b) An agreement that otherwise meets the requirements of
 22-68 this part, however, shall be effective without including any of
 22-69 those phrases.

23-1 (c) A survivorship agreement will not be inferred from the
 23-2 mere fact that the account is a joint account or that the account is
 23-3 designated as JT TEN, Joint Tenancy, or joint, or with other similar
 23-4 language.

23-5 SECTION 1.38. Section 471, Texas Probate Code, is amended
 23-6 by amending Subdivision (2) and adding Subdivision (2-a) to read as
 23-7 follows:

23-8 (2) "Divorced individual" means an individual whose
 23-9 marriage has been dissolved, [~~regardless of~~] whether by divorce,
 23-10 [~~or~~] annulment, or a declaration that the marriage is void.

23-11 (2-a) "Relative" means an individual who is related to
 23-12 another individual by consanguinity or affinity, as determined
 23-13 under Sections 573.022 and 573.024, Government Code, respectively.

23-14 SECTION 1.39. Sections 472 and 473, Texas Probate Code, are
 23-15 amended to read as follows:

23-16 Sec. 472. REVOCATION OF CERTAIN NONTESTAMENTARY TRANSFERS
 23-17 ON DISSOLUTION OF MARRIAGE. (a) Except as otherwise provided by a
 23-18 court order, the express terms of a trust instrument executed by a
 23-19 divorced individual before the individual's marriage was
 23-20 dissolved, or an express provision of a contract relating to the
 23-21 division of the marital estate entered into between a divorced
 23-22 individual and the individual's former spouse before, during, or
 23-23 after the marriage, the dissolution of the marriage revokes the
 23-24 following:

23-25 (1) a revocable disposition or appointment of property
 23-26 made by a divorced individual to the individual's former spouse or
 23-27 any relative of the former spouse who is not a relative of the
 23-28 divorced individual in a trust instrument executed before the
 23-29 dissolution of the marriage;

23-30 (2) a provision in a trust instrument executed by a
 23-31 divorced individual before the dissolution of the marriage that
 23-32 confers a general or special power of appointment on the
 23-33 individual's former spouse or any relative of the former spouse who
 23-34 is not a relative of the divorced individual; and

23-35 (3) a nomination in a trust instrument executed by a
 23-36 divorced individual before the dissolution of the marriage that
 23-37 nominates the individual's former spouse or any relative of the
 23-38 former spouse who is not a relative of the divorced individual to
 23-39 serve in a fiduciary or representative capacity, including as a
 23-40 personal representative, executor, trustee, conservator, agent, or
 23-41 guardian.

23-42 (b) After the dissolution of a marriage, an interest granted
 23-43 in a provision of a trust instrument that is revoked under
 23-44 Subsection (a)(1) or (2) of this section passes as if the former
 23-45 spouse of the divorced individual who executed the trust instrument
 23-46 and each relative of the former spouse who is not a relative of the
 23-47 divorced individual disclaimed the interest granted in the
 23-48 provision, and an interest granted in a provision of a trust
 23-49 instrument that is revoked under Subsection (a)(3) of this section
 23-50 passes as if the former spouse and each relative of the former
 23-51 spouse who is not a relative of the divorced individual died
 23-52 immediately before the dissolution of the marriage.

23-53 Sec. 473. LIABILITY FOR CERTAIN PAYMENTS, BENEFITS, AND
 23-54 PROPERTY. (a) A bona fide purchaser of property from a divorced
 23-55 individual's former spouse or any relative of the former spouse who
 23-56 is not a relative of the divorced individual or a person who
 23-57 receives from a divorced individual's former spouse or any relative
 23-58 of the former spouse who is not a relative of the divorced
 23-59 individual a payment, benefit, or property in partial or full
 23-60 satisfaction of an enforceable obligation:

23-61 (1) is not required by this chapter to return the
 23-62 payment, benefit, or property; and

23-63 (2) is not liable under this chapter for the amount of
 23-64 the payment or the value of the property or benefit.

23-65 (b) A divorced individual's former spouse or any relative of
 23-66 the former spouse who is not a relative of the divorced individual
 23-67 who, not for value, receives a payment, benefit, or property to
 23-68 which the former spouse or the relative of the former spouse who is
 23-69 not a relative of the divorced individual is not entitled as a

24-1 result of Section 472(a) of this code:

24-2 (1) shall return the payment, benefit, or property to
24-3 the person who is otherwise entitled to the payment, benefit, or
24-4 property as provided by this chapter; or

24-5 (2) is personally liable to the person described by
24-6 Subdivision (1) of this subsection for the amount of the payment or
24-7 the value of the benefit or property received.

24-8 SECTION 1.40. Subsection (i), Section 25.0022, Government
24-9 Code, is amended to read as follows:

24-10 (i) A judge assigned under this section has the
24-11 jurisdiction, powers, and duties given by Sections 4A, 4C, 4D, 4F,
24-12 4G, 4H, 5B, 606, 607, and 608, Texas Probate Code, to statutory
24-13 probate court judges by general law.

24-14 SECTION 1.41. (a) Subsection (c), Section 48, Section 70,
24-15 and Subsection (f), Section 251, Texas Probate Code, are repealed.

24-16 (b) Notwithstanding the transfer of Section 5, Texas
24-17 Probate Code, to the Estates Code and redesignation as Section 5 of
24-18 that code effective January 1, 2014, by Section 2, Chapter 680 (H.B.
24-19 2502), Acts of the 81st Legislature, Regular Session, 2009, Section
24-20 5, Texas Probate Code, is repealed.

24-21 SECTION 1.42. (a) The changes in law made by Sections 4D,
24-22 4H, 6, 8, 48, and 49, Texas Probate Code, as amended by this
24-23 article, and Sections 6A, 6B, 6C, 6D, 8A, and 8B, Texas Probate
24-24 Code, as added by this article, apply only to an action filed or
24-25 other proceeding commenced on or after the effective date of this
24-26 Act. An action filed or other proceeding commenced before the
24-27 effective date of this Act is governed by the law in effect on the
24-28 date the action was filed or the proceeding was commenced, and the
24-29 former law is continued in effect for that purpose.

24-30 (b) The changes in law made by Subsection (p), Section 37A,
24-31 Texas Probate Code, as added by this article, apply to all
24-32 disclaimers made after December 31, 2009, for decedents dying after
24-33 December 31, 2009, but before December 17, 2010.

24-34 (c) The changes in law made by Sections 64, 67, 84, 128A,
24-35 143, 145, 146, 149C, 227, 250, 256, 260, 271, 286, 293, 385, 471,
24-36 472, and 473, Texas Probate Code, as amended by this article, and
24-37 Sections 145A, 145B, and 145C, Texas Probate Code, as added by this
24-38 article, apply only to the estate of a decedent who dies on or after
24-39 the effective date of this Act. The estate of a decedent who dies
24-40 before the effective date of this Act is governed by the law in
24-41 effect on the date of the decedent's death, and the former law is
24-42 continued in effect for that purpose.

24-43 (d) The changes in law made by this article to Section 59,
24-44 Texas Probate Code, apply only to a will executed on or after the
24-45 effective date of this Act. A will executed before the effective
24-46 date of this Act is governed by the law in effect on the date the
24-47 will was executed, and the former law is continued in effect for
24-48 that purpose.

24-49 (e) The changes in law made by this article to Section 149B,
24-50 Texas Probate Code, apply only to a petition for an accounting and
24-51 distribution filed on or after the effective date of this Act. A
24-52 petition for an accounting and distribution filed before the
24-53 effective date of this Act is governed by the law in effect on the
24-54 date the petition is filed, and the former law is continued in
24-55 effect for that purpose.

24-56 (f) The changes in law made by this article to Section 151,
24-57 Texas Probate Code, apply only to a closing report or notice of
24-58 closing of an estate filed on or after the effective date of this
24-59 Act. A closing report or notice of closing of an estate filed
24-60 before the effective date of this Act is governed by the law in
24-61 effect on the date the closing report or notice is filed, and the
24-62 former law is continued in effect for that purpose.

24-63 (g) The changes in law made by this article to Sections 436
24-64 and 439, Texas Probate Code, apply only to multiple-party accounts
24-65 created or existing on or after the effective date of this Act and
24-66 are intended to clarify existing law.

24-67 (h) The changes in law made by this article to Section 452,
24-68 Texas Probate Code, apply only to agreements created or existing on
24-69 or after the effective date of this Act, and are intended to

25-1 overturn the ruling of the Texas Supreme Court in *Holmes v. Beatty*,
 25-2 290 S.W.3d 852 (Tex. 2009).

25-3 SECTION 1.43. Subsection (p), Section 37A, Texas Probate
 25-4 Code, as added by this article, takes effect immediately if this Act
 25-5 receives a vote of two-thirds of all the members elected to each
 25-6 house, as provided by Section 39, Article III, Texas Constitution.
 25-7 If this Act does not receive the vote necessary for immediate
 25-8 effect, Subsection (p), Section 37A, Texas Probate Code, as added
 25-9 by this article, takes effect September 1, 2011.

ARTICLE 2. CHANGES TO ESTATES CODE

25-10 SECTION 2.01. The heading to Subtitle A, Title 2, Estates
 25-11 Code, as effective January 1, 2014, is amended to read as follows:

SUBTITLE A. SCOPE, JURISDICTION, VENUE, AND COURTS

25-12 SECTION 2.02. Section 32.003, Estates Code, as effective
 25-13 January 1, 2014, is amended by adding Subsection (b-1) and amending
 25-14 Subsections (e) and (g) to read as follows:

25-15 (b-1) If a judge of a county court requests the assignment
 25-16 of a statutory probate court judge to hear a contested matter in a
 25-17 probate proceeding on the judge's own motion or on the motion of a
 25-18 party to the proceeding as provided by this section, the judge may
 25-19 request that the statutory probate court judge be assigned to the
 25-20 entire proceeding on the judge's own motion or on the motion of a
 25-21 party.

25-22 (e) A statutory probate court judge assigned to a contested
 25-23 matter in a probate proceeding or to the entire proceeding under
 25-24 this section has the jurisdiction and authority granted to a
 25-25 statutory probate court by this subtitle. A statutory probate
 25-26 court judge assigned to hear only the contested matter in a probate
 25-27 proceeding shall, on [On] resolution of the [a contested] matter
 25-28 [for which a statutory probate court judge is assigned under this
 25-29 section], including any appeal of the matter, [the statutory
 25-30 probate court judge shall] return the matter to the county court for
 25-31 further proceedings not inconsistent with the orders of the
 25-32 statutory probate court or court of appeals, as applicable. A
 25-33 statutory probate court judge assigned to the entire probate
 25-34 proceeding as provided by Subsection (b-1) shall, on resolution of
 25-35 the contested matter in the proceeding, including any appeal of the
 25-36 matter, return the entire proceeding to the county court for
 25-37 further proceedings not inconsistent with the orders of the
 25-38 statutory probate court or court of appeals, as applicable.

25-39 (g) If only the contested matter in a probate proceeding is
 25-40 assigned to a statutory probate court judge under this section, or
 25-41 if the contested matter in a probate proceeding is transferred to a
 25-42 district court under this section, the [The] county court shall
 25-43 continue to exercise jurisdiction over the management of the
 25-44 estate, other than a contested matter, until final disposition of
 25-45 the contested matter is made in accordance with this section. Any
 25-46 [After a contested matter is transferred to a district court, any]
 25-47 matter related to a [the] probate proceeding in which a contested
 25-48 matter is transferred to a district court may be brought in the
 25-49 district court. The district court in which a matter related to the
 25-50 [probate] proceeding is filed may, on its own motion or on the
 25-51 motion of any party, find that the matter is not a contested matter
 25-52 and transfer the matter to the county court with jurisdiction of the
 25-53 management of the estate.

25-54 SECTION 2.03. Section 32.007, Estates Code, as effective
 25-55 January 1, 2014, is amended to read as follows:

25-56 Sec. 32.007. CONCURRENT JURISDICTION WITH DISTRICT COURT.
 25-57 A statutory probate court has concurrent jurisdiction with the
 25-58 district court in:

25-59 (1) a personal injury, survival, or wrongful death
 25-60 action by or against a person in the person's capacity as a personal
 25-61 representative;

25-62 (2) an action by or against a trustee;

25-63 (3) an action involving an inter vivos trust,
 25-64 testamentary trust, or charitable trust, including a charitable
 25-65 trust as defined by Section 123.001, Property Code;

25-66 (4) an action involving a personal representative of
 25-67 an estate in which each other party aligned with the personal
 25-68
 25-69

representative is not an interested person in that estate;

(5) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and

(6) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

SECTION 2.04. Subtitle A, Title 2, Estates Code, as effective January 1, 2014, is amended by adding Chapter 33 to read as follows:

CHAPTER 33. VENUE

SUBCHAPTER A. VENUE FOR CERTAIN PROCEEDINGS

Sec. 33.001. PROBATE OF WILLS AND GRANTING OF LETTERS TESTAMENTARY AND OF ADMINISTRATION. Venue for a probate proceeding to admit a will to probate or for the granting of letters testamentary or of administration is:

(1) in the county in which the decedent resided, if the decedent had a domicile or fixed place of residence in this state; or

(2) with respect to a decedent who did not have a domicile or fixed place of residence in this state:

(A) if the decedent died in this state, in the county in which:

(i) the decedent's principal estate was located at the time of the decedent's death; or

(ii) the decedent died; or

(B) if the decedent died outside of this state:

(i) in any county in this state in which the decedent's nearest of kin reside; or

(ii) if there is no next of kin of the decedent in this state, in the county in which the decedent's principal estate was located at the time of the decedent's death.

Sec. 33.002. ACTION RELATED TO PROBATE PROCEEDING IN STATUTORY PROBATE COURT. Except as provided by Section 33.003, venue for any cause of action related to a probate proceeding pending in a statutory probate court is proper in the statutory probate court in which the decedent's estate is pending.

Sec. 33.003. CERTAIN ACTIONS INVOLVING PERSONAL REPRESENTATIVE. Notwithstanding any other provision of this chapter, the proper venue for an action by or against a personal representative for personal injury, death, or property damages is determined under Section 15.007, Civil Practice and Remedies Code.

Sec. 33.004. HEIRSHIP PROCEEDINGS. (a) Venue for a proceeding to determine a decedent's heirs is in:

(1) the court of the county in which a proceeding admitting the decedent's will to probate or administering the decedent's estate was most recently pending; or

(2) the court of the county in which venue would be proper for commencement of an administration of the decedent's estate under Section 33.001 if:

(A) no will of the decedent has been admitted to probate in this state and no administration of the decedent's estate has been granted in this state; or

(B) the proceeding is commenced by the trustee of a trust holding assets for the benefit of the decedent.

(b) Notwithstanding Subsection (a) and Section 33.001, if there is no administration pending of the estate of a deceased ward who died intestate, venue for a proceeding to determine the deceased ward's heirs is in the probate court in which the guardianship proceedings with respect to the ward's estate were pending on the date of the ward's death. A proceeding described by this subsection may not be brought as part of the guardianship proceedings with respect to the ward's estate, but rather must be filed as a separate cause in which the court may determine the heirs' respective shares and interests in the estate as provided by the laws of this state.

Sec. 33.005. CERTAIN ACTIONS INVOLVING BREACH OF FIDUCIARY DUTY. Notwithstanding any other provision of this chapter, venue for a proceeding brought by the attorney general alleging breach of

27-1 a fiduciary duty by a charitable entity or a fiduciary or managerial
 27-2 agent of a charitable trust is determined under Section 123.005,
 27-3 Property Code.

27-4 [Sections 33.006-33.050 reserved for expansion]

27-5 SUBCHAPTER B. DETERMINATION OF VENUE

27-6 Sec. 33.051. COMMENCEMENT OF PROCEEDING. For purposes of
 27-7 this subchapter, a probate proceeding is considered commenced on
 27-8 the filing of an application for the proceeding that avers facts
 27-9 sufficient to confer venue on the court in which the application is
 27-10 filed.

27-11 Sec. 33.052. CONCURRENT VENUE. (a) If applications for
 27-12 probate proceedings involving the same estate are filed in two or
 27-13 more courts having concurrent venue, the court in which a
 27-14 proceeding involving the estate was first commenced has and retains
 27-15 jurisdiction of the proceeding to the exclusion of the other court
 27-16 or courts in which a proceeding involving the same estate was
 27-17 commenced.

27-18 (b) The first commenced probate proceeding extends to all of
 27-19 the decedent's property, including the decedent's estate property.

27-20 Sec. 33.053. PROBATE PROCEEDINGS IN MORE THAN ONE COUNTY.
 27-21 If probate proceedings involving the same estate are commenced in
 27-22 more than one county, each proceeding commenced in a county other
 27-23 than the county in which a proceeding was first commenced is stayed
 27-24 until the court in which the proceeding was first commenced makes a
 27-25 final determination of venue.

27-26 Sec. 33.054. JURISDICTION TO DETERMINE VENUE. (a) Subject
 27-27 to Sections 33.052 and 33.053, a court in which an application for a
 27-28 probate proceeding is filed has jurisdiction to determine venue for
 27-29 the proceeding and for any matter related to the proceeding.

27-30 (b) A court's determination under this section is not
 27-31 subject to collateral attack.

27-32 Sec. 33.055. PROTECTION FOR CERTAIN PURCHASERS.
 27-33 Notwithstanding Section 33.052, a bona fide purchaser of real
 27-34 property who relied on a probate proceeding that was not the first
 27-35 commenced proceeding, without knowledge that the proceeding was not
 27-36 the first commenced proceeding, shall be protected with respect to
 27-37 the purchase unless before the purchase an order rendered in the
 27-38 first commenced proceeding admitting the decedent's will to
 27-39 probate, determining the decedent's heirs, or granting
 27-40 administration of the decedent's estate was recorded in the office
 27-41 of the county clerk of the county in which the purchased property is
 27-42 located.

27-43 [Sections 33.056-33.100 reserved for expansion]

27-44 SUBCHAPTER C. TRANSFER OF PROBATE PROCEEDING

27-45 Sec. 33.101. TRANSFER TO OTHER COUNTY IN WHICH VENUE IS
 27-46 PROPER. If probate proceedings involving the same estate are
 27-47 commenced in more than one county and the court making a
 27-48 determination of venue as provided by Section 33.053 determines
 27-49 that venue is proper in another county, the court clerk shall make
 27-50 and retain a copy of the entire file in the case and transmit the
 27-51 original file to the court in the county in which venue is proper.
 27-52 The court to which the file is transmitted shall conduct the
 27-53 proceeding in the same manner as if the proceeding had originally
 27-54 been commenced in that county.

27-55 Sec. 33.102. TRANSFER FOR WANT OF VENUE. (a) If it appears
 27-56 to the court at any time before the final order in a probate
 27-57 proceeding is rendered that the court does not have priority of
 27-58 venue over the proceeding, the court shall, on the application of an
 27-59 interested person, transfer the proceeding to the proper county by
 27-60 transmitting to the proper court in that county:

27-61 (1) the original file in the case; and
 27-62 (2) certified copies of all entries that have been
 27-63 made in the judge's probate docket in the proceeding.

27-64 (b) The court of the county to which a probate proceeding is
 27-65 transferred under Subsection (a) shall complete the proceeding in
 27-66 the same manner as if the proceeding had originally been commenced
 27-67 in that county.

27-68 (c) If the question as to priority of venue is not raised
 27-69 before a final order in a probate proceeding is announced, the

28-1 finality of the order is not affected by any error in venue.
 28-2 Sec. 33.103. TRANSFER FOR CONVENIENCE. (a) The court may
 28-3 order that a probate proceeding be transferred to the proper court
 28-4 in another county in this state if it appears to the court at any
 28-5 time before the proceeding is concluded that the transfer would be
 28-6 in the best interest of:
 28-7 (1) the estate; or
 28-8 (2) if there is no administration of the estate, the
 28-9 decedent's heirs or beneficiaries under the decedent's will.
 28-10 (b) The clerk of the court from which the probate proceeding
 28-11 described by Subsection (a) is transferred shall transmit to the
 28-12 court to which the proceeding is transferred:
 28-13 (1) the original file in the proceeding; and
 28-14 (2) a certified copy of the index.
 28-15 Sec. 33.104. VALIDATION OF PREVIOUS PROCEEDINGS. All
 28-16 orders entered in connection with a probate proceeding that is
 28-17 transferred to another county under a provision of this subchapter
 28-18 are valid and shall be recognized in the court to which the
 28-19 proceeding is transferred if the orders were made and entered in
 28-20 conformance with the procedure prescribed by this code.
 28-21 SECTION 2.05. Subsection (b), Section 52.052, Estates Code,
 28-22 as effective January 1, 2014, is amended to read as follows:
 28-23 (b) Each case file must contain each order, judgment, and
 28-24 proceeding of the court and any other probate filing with the court,
 28-25 including each:
 28-26 (1) application for the probate of a will;
 28-27 (2) application for the granting of administration;
 28-28 (3) citation and notice, whether published or posted,
 28-29 including the return on the citation or notice;
 28-30 (4) will and the testimony on which the will is
 28-31 admitted to probate;
 28-32 (5) bond and official oath;
 28-33 (6) inventory, appraisalment, and list of claims;
 28-34 (6-a) affidavit in lieu of the inventory,
 28-35 appraisalment, and list of claims;
 28-36 (7) exhibit and account;
 28-37 (8) report of renting;
 28-38 (9) application for sale or partition of real estate;
 28-39 (10) report of sale;
 28-40 (11) report of the commissioners of partition;
 28-41 (12) application for authority to execute a lease for
 28-42 mineral development, or for pooling or unitization of lands,
 28-43 royalty, or other interest in minerals, or to lend or invest money;
 28-44 and
 28-45 (13) report of lending or investing money.
 28-46 SECTION 2.06. Section 112.052, Estates Code, as effective
 28-47 January 1, 2014, is amended by adding Subsection (d) to read as
 28-48 follows:
 28-49 (d) A survivorship agreement may not be inferred from the
 28-50 mere fact that an account is a joint account or that an account is
 28-51 designated as JT TEN, Joint Tenancy, or joint, or with other similar
 28-52 language.
 28-53 SECTION 2.07. Section 113.001, Estates Code, as effective
 28-54 January 1, 2014, is amended by adding Subdivision (2-a) and
 28-55 amending Subdivision (5) to read as follows:
 28-56 (2-a) "Charitable organization" means any
 28-57 corporation, community chest, fund, or foundation that is exempt
 28-58 from federal income tax under Section 501(a) of the Internal
 28-59 Revenue Code of 1986 by being listed as an exempt organization in
 28-60 Section 501(c)(3) of that code.
 28-61 (5) "P.O.D. payee" means a person or charitable
 28-62 organization designated on a P.O.D. account as a person to whom the
 28-63 account is payable on request after the death of one or more
 28-64 persons.
 28-65 SECTION 2.08. Subsection (b), Section 113.002, Estates
 28-66 Code, as effective January 1, 2014, is amended to read as follows:
 28-67 (b) A P.O.D. payee, including a charitable organization, or
 28-68 beneficiary of a trust account is a party only after the account
 28-69 becomes payable to the P.O.D. payee or beneficiary by reason of the

29-1 P.O.D. payee or beneficiary surviving the original payee or
29-2 trustee.

29-3 SECTION 2.09. Subsection (c), Section 113.151, Estates
29-4 Code, as effective January 1, 2014, is amended to read as follows:

29-5 (c) A survivorship agreement may not be inferred from the
29-6 mere fact that the account is a joint account or that the account is
29-7 designated as JT TEN, Joint Tenancy, or joint, or with other similar
29-8 language.

29-9 SECTION 2.10. Subsection (c), Section 122.055, Estates
29-10 Code, as effective January 1, 2014, is amended to read as follows:

29-11 (c) If the beneficiary is a charitable organization or a
29-12 governmental agency of the state, a written memorandum of
29-13 disclaimer of a present or future interest must be filed not later
29-14 than the later of:

29-15 (1) the first anniversary of the date the beneficiary
29-16 receives the notice required by Subchapter A, Chapter 308; or

29-17 (2) the expiration of the six-month period following
29-18 the date the personal representative files:

29-19 (A) the inventory, appraisement, and list of
29-20 claims due or owing to the estate; or

29-21 (B) the affidavit in lieu of the inventory,
29-22 appraisement, and list of claims.

29-23 SECTION 2.11. Subsection (b), Section 122.056, Estates
29-24 Code, as effective January 1, 2014, is amended to read as follows:

29-25 (b) If the beneficiary is a charitable organization or a
29-26 governmental agency of this state, notice of a disclaimer required
29-27 by Subsection (a) must be filed not later than the later of:

29-28 (1) the first anniversary of the date the beneficiary
29-29 receives the notice required by Subchapter A, Chapter 308; or

29-30 (2) the expiration of the six-month period following
29-31 the date the personal representative files:

29-32 (A) the inventory, appraisement, and list of
29-33 claims due or owing to the estate; or

29-34 (B) the affidavit in lieu of the inventory,
29-35 appraisement, and list of claims.

29-36 SECTION 2.12. Subchapter B, Chapter 122, Estates Code, as
29-37 effective January 1, 2014, is amended by adding Section 122.057 to
29-38 read as follows:

29-39 Sec. 122.057. EXTENSION OF TIME FOR CERTAIN DISCLAIMERS.

29-40 (a) This section does not apply to a disclaimer made by a
29-41 beneficiary that is a charitable organization or governmental
29-42 agency of the state.

29-43 (b) Notwithstanding the periods prescribed by Sections
29-44 122.055 and 122.056, a disclaimer with respect to an interest in
29-45 property passing by reason of the death of a decedent dying after
29-46 December 31, 2009, but before December 17, 2010, may be executed and
29-47 filed, and notice of the disclaimer may be given, not later than
29-48 nine months after December 17, 2010.

29-49 (c) A disclaimer filed and for which notice is given during
29-50 the extended period described by Subsection (b) is valid and shall
29-51 be treated as if the disclaimer had been filed and notice had been
29-52 given within the periods prescribed by Sections 122.055 and
29-53 122.056.

29-54 SECTION 2.13. Section 123.051, Estates Code, as effective
29-55 January 1, 2014, is amended by amending Subdivision (2) and adding
29-56 Subdivision (2-a) to read as follows:

29-57 (2) "Divorced individual" means an individual whose
29-58 marriage has been dissolved by divorce, ~~or~~ annulment, or a
29-59 declaration that the marriage is void.

29-60 (2-a) "Relative" means an individual who is related to
29-61 another individual by consanguinity or affinity, as determined
29-62 under Sections 573.022 and 573.024, Government Code, respectively.

29-63 SECTION 2.14. Subsection (a), Section 123.052, Estates
29-64 Code, as effective January 1, 2014, is amended to read as follows:

29-65 (a) The dissolution of the marriage revokes a provision in a
29-66 trust instrument that was executed by a divorced individual before
29-67 the divorced individual's marriage was dissolved and that:

29-68 (1) is a revocable disposition or appointment of
29-69 property made to the divorced individual's former spouse or any

30-1 relative of the former spouse who is not a relative of the divorced
 30-2 individual;

30-3 (2) confers a general or special power of appointment
 30-4 on the divorced individual's former spouse or any relative of the
 30-5 former spouse who is not a relative of the divorced individual; or

30-6 (3) nominates the divorced individual's former spouse
 30-7 or any relative of the former spouse who is not a relative of the
 30-8 divorced individual to serve:

30-9 (A) as a personal representative, trustee,
 30-10 conservator, agent, or guardian; or

30-11 (B) in another fiduciary or representative
 30-12 capacity.

30-13 SECTION 2.15. Section 123.053, Estates Code, as effective
 30-14 January 1, 2014, is amended to read as follows:

30-15 Sec. 123.053. EFFECT OF REVOCATION. (a) An interest
 30-16 granted in a provision of a trust instrument that is revoked under
 30-17 Section 123.052(a)(1) or (2) passes as if the former spouse of the
 30-18 divorced individual who executed the trust instrument and each
 30-19 relative of the former spouse who is not a relative of the divorced
 30-20 individual disclaimed the interest granted in the provision.

30-21 (b) An interest granted in a provision of a trust instrument
 30-22 that is revoked under Section 123.052(a)(3) passes as if the former
 30-23 spouse and each relative of the former spouse who is not a relative
 30-24 of the divorced individual died immediately before the dissolution
 30-25 of the marriage.

30-26 SECTION 2.16. Section 123.054, Estates Code, as effective
 30-27 January 1, 2014, is amended to read as follows:

30-28 Sec. 123.054. LIABILITY OF CERTAIN PURCHASERS OR RECIPIENTS
 30-29 OF CERTAIN PAYMENTS, BENEFITS, OR PROPERTY. A bona fide purchaser
 30-30 of property from a divorced individual's former spouse or any
 30-31 relative of the former spouse who is not a relative of the divorced
 30-32 individual or a person who receives from the former spouse or any
 30-33 relative of the former spouse who is not a relative of the divorced
 30-34 individual a payment, benefit, or property in partial or full
 30-35 satisfaction of an enforceable obligation:

30-36 (1) is not required by this subchapter to return the
 30-37 payment, benefit, or property; and

30-38 (2) is not liable under this subchapter for the amount
 30-39 of the payment or the value of the property or benefit.

30-40 SECTION 2.17. Section 123.055, Estates Code, as effective
 30-41 January 1, 2014, is amended to read as follows:

30-42 Sec. 123.055. LIABILITY OF FORMER SPOUSE FOR CERTAIN
 30-43 PAYMENTS, BENEFITS, OR PROPERTY. A divorced individual's former
 30-44 spouse or any relative of the former spouse who is not a relative of
 30-45 the divorced individual who, not for value, receives a payment,
 30-46 benefit, or property to which the former spouse or the relative of
 30-47 the former spouse who is not a relative of the divorced individual
 30-48 is not entitled as a result of Sections 123.052(a) and (b):

30-49 (1) shall return the payment, benefit, or property to
 30-50 the person who is entitled to the payment, benefit, or property
 30-51 under this subchapter; or

30-52 (2) is personally liable to the person described by
 30-53 Subdivision (1) for the amount of the payment or the value of the
 30-54 benefit or property received, as applicable.

30-55 SECTION 2.18. Section 202.001, Estates Code, as effective
 30-56 January 1, 2014, is amended to read as follows:

30-57 Sec. 202.001. GENERAL AUTHORIZATION FOR AND NATURE OF
 30-58 PROCEEDING TO DECLARE HEIRSHIP. In the manner provided by this
 30-59 chapter, a court may determine through a proceeding to declare
 30-60 heirship:

30-61 (1) the persons who are a decedent's heirs and only
 30-62 heirs; and

30-63 (2) the heirs' respective shares and interests under
 30-64 the laws of this state in the decedent's estate or, if applicable,
 30-65 in the trust.

30-66 SECTION 2.19. Section 202.002, Estates Code, as effective
 30-67 January 1, 2014, is amended to read as follows:

30-68 Sec. 202.002. CIRCUMSTANCES UNDER WHICH PROCEEDING TO
 30-69 DECLARE HEIRSHIP IS AUTHORIZED. A court may conduct a proceeding to

31-1 declare heirship when:

31-2 (1) a person dies intestate owning or entitled to
31-3 property in this state and there has been no administration in this
31-4 state of the person's estate; ~~or~~

31-5 (2) there has been a will probated in this state or
31-6 elsewhere or an administration in this state of a ~~the~~ decedent's
31-7 estate, but:

31-8 (A) property in this state was omitted from the
31-9 will or administration; or

31-10 (B) no final disposition of property in this
31-11 state has been made in the administration; or

31-12 (3) it is necessary for the trustee of a trust holding
31-13 assets for the benefit of a decedent to determine the heirs of the
31-14 decedent.

31-15 SECTION 2.20. Section 202.004, Estates Code, as effective
31-16 January 1, 2014, is amended to read as follows:

31-17 Sec. 202.004. PERSONS WHO MAY COMMENCE PROCEEDING TO
31-18 DECLARE HEIRSHIP. A proceeding to declare heirship of a decedent
31-19 may be commenced and maintained under a circumstance specified by
31-20 Section 202.002 by:

31-21 (1) the personal representative of the decedent's
31-22 estate;

31-23 (2) a person claiming to be a secured creditor or the
31-24 owner of all or part of the decedent's estate; ~~or~~

31-25 (3) if the decedent was a ward with respect to whom a
31-26 guardian of the estate had been appointed, the guardian of the
31-27 estate, provided that the proceeding is commenced and maintained in
31-28 the probate court in which the proceedings for the guardianship of
31-29 the estate were pending at the time of the decedent's death;

31-30 (4) a party seeking the appointment of an independent
31-31 administrator under Section 401.003; or

31-32 (5) the trustee of a trust holding assets for the
31-33 benefit of a decedent.

31-34 SECTION 2.21. Section 202.005, Estates Code, as effective
31-35 January 1, 2014, is amended to read as follows:

31-36 Sec. 202.005. APPLICATION FOR PROCEEDING TO DECLARE
31-37 HEIRSHIP. A person authorized by Section 202.004 to commence a
31-38 proceeding to declare heirship must file an application in a court
31-39 specified by Section 33.004 ~~[202.003]~~ to commence the proceeding.
31-40 The application must state:

31-41 (1) the decedent's name and time and place of death;

31-42 (2) the names and residences of the decedent's heirs,
31-43 the relationship of each heir to the decedent, and the true interest
31-44 of the applicant and each of the heirs in the decedent's estate or
31-45 in the trust, as applicable;

31-46 (3) if the time or place of the decedent's death or the
31-47 name or residence of an heir is not definitely known to the
31-48 applicant, all the material facts and circumstances with respect to
31-49 which the applicant has knowledge and information that might
31-50 reasonably tend to show the time or place of the decedent's death or
31-51 the name or residence of the heir;

31-52 (4) that all children born to or adopted by the
31-53 decedent have been listed;

31-54 (5) that each of the decedent's marriages has been
31-55 listed with:

31-56 (A) the date of the marriage;

31-57 (B) the name of the spouse;

31-58 (C) the date and place of termination if the
31-59 marriage was terminated; and

31-60 (D) other facts to show whether a spouse has had
31-61 an interest in the decedent's property;

31-62 (6) whether the decedent died testate and, if so, what
31-63 disposition has been made of the will;

31-64 (7) a general description of all property belonging to
31-65 the decedent's estate or held in trust for the benefit of the
31-66 decedent, as applicable; and

31-67 (8) an explanation for the omission from the
31-68 application of any of the information required by this section.

31-69 SECTION 2.22. Section 251.101, Estates Code, as effective

32-1 January 1, 2014, is amended to read as follows:

32-2 Sec. 251.101. SELF-PROVED WILL. A self-proved will is a
32-3 will:

32-4 (1) to which a self-proving affidavit subscribed and
32-5 sworn to by the testator and witnesses is attached or annexed; or

32-6 (2) that is simultaneously executed, attested, and
32-7 made self-proved as provided by Section 251.1045 [~~is a self-proved~~
32-8 ~~will~~].

32-9 SECTION 2.23. Subsection (a), Section 251.102, Estates
32-10 Code, as effective January 1, 2014, is amended to read as follows:

32-11 (a) A self-proved will may be admitted to probate without
32-12 the testimony of any subscribing witnesses if:

32-13 (1) the testator and witnesses execute a self-proving
32-14 affidavit; or

32-15 (2) the will is simultaneously executed, attested, and
32-16 made self-proved as provided by Section 251.1045.

32-17 SECTION 2.24. Subsection (b), Section 251.104, Estates
32-18 Code, as effective January 1, 2014, is amended to read as follows:

32-19 (b) A self-proving affidavit must be made by the testator
32-20 and by the attesting witnesses before an officer authorized to
32-21 administer oaths [~~under the laws of this state~~]. The officer shall
32-22 affix the officer's official seal to the self-proving affidavit.

32-23 SECTION 2.25. Subchapter C, Chapter 251, Estates Code, as
32-24 effective January 1, 2014, is amended by adding Section 251.1045 to
32-25 read as follows:

32-26 Sec. 251.1045. SIMULTANEOUS EXECUTION, ATTESTATION, AND
32-27 SELF-PROVING. (a) As an alternative to the self-proving of a will
32-28 by the affidavits of the testator and the attesting witnesses as
32-29 provided by Section 251.104, a will may be simultaneously executed,
32-30 attested, and made self-proved before an officer authorized to
32-31 administer oaths, and the testimony of the witnesses in the probate
32-32 of the will may be made unnecessary, with the inclusion in the will
32-33 of the following in form and contents substantially as follows:

32-34 I, _____, as testator, after being duly
32-35 sworn, declare to the undersigned witnesses and to the undersigned
32-36 authority that this instrument is my will, that I have willingly
32-37 made and executed it in the presence of the undersigned witnesses,
32-38 all of whom were present at the same time, as my free act and deed,
32-39 and that I have requested each of the undersigned witnesses to sign
32-40 this will in my presence and in the presence of each other. I now
32-41 sign this will in the presence of the attesting witnesses and the
32-42 undersigned authority on this _____ day of _____,
32-43 20_____.
32-44

Testator

32-45 The undersigned, _____ and _____, each being at
32-46 least fourteen years of age, after being duly sworn, declare to the
32-47 testator and to the undersigned authority that the testator
32-48 declared to us that this instrument is the testator's will and that
32-49 the testator requested us to act as witnesses to the testator's will
32-50 and signature. The testator then signed this will in our presence,
32-51 all of us being present at the same time. The testator is eighteen
32-52 years of age or over (or being under such age, is or has been
32-53 lawfully married, or is a member of the armed forces of the United
32-54 States or of an auxiliary of the armed forces of the United States
32-55 or of the United States Maritime Service), and we believe the
32-56 testator to be of sound mind. We now sign our names as attesting
32-57 witnesses in the presence of the testator, each other, and the
32-58 undersigned authority on this _____ day of _____,
32-59 20_____.
32-60

Witness

Witness

32-61
32-62
32-63
32-64
32-65 Subscribed and sworn to before me by the said _____,
32-66 testator, and by the said _____ and _____,
32-67 witnesses, this _____ day of _____, 20_____.

(SEAL)

(Signed) _____

(Official Capacity of Officer)

33-1 (b) A will that is in substantial compliance with the form
 33-2 provided by Subsection (a) is sufficient to self-prove a will.

33-3 SECTION 2.26. Chapter 254, Estates Code, as effective
 33-4 January 1, 2014, is amended by adding Section 254.005 to read as
 33-5 follows:

33-6 Sec. 254.005. FORFEITURE CLAUSE. A provision in a will that
 33-7 would cause a forfeiture of or void a devise or provision in favor
 33-8 of a person for bringing any court action, including contesting a
 33-9 will, is unenforceable if:

33-10 (1) just cause existed for bringing the action; and
 33-11 (2) the action was brought and maintained in good
 33-12 faith.

33-13 SECTION 2.27. Subsection (a), Section 255.053, Estates
 33-14 Code, as effective January 1, 2014, is amended to read as follows:

33-15 (a) If no provision is made in the testator's last will for
 33-16 any child of the testator who is living when the testator executes
 33-17 the will, a pretermitted child succeeds to the portion of the
 33-18 testator's separate and community estate, other than any portion of
 33-19 the estate devised to the pretermitted child's other parent, to
 33-20 which the pretermitted child would have been entitled under Section
 33-21 201.001 if the testator had died intestate without a surviving
 33-22 spouse, except as limited by Section 255.056.

33-23 SECTION 2.28. Section 255.054, Estates Code, as effective
 33-24 January 1, 2014, is amended to read as follows:

33-25 Sec. 255.054. SUCCESSION BY PRETERMITTED CHILD IF TESTATOR
 33-26 HAS NO LIVING CHILD AT WILL'S EXECUTION. If a testator has no child
 33-27 living when the testator executes the testator's last will, a
 33-28 pretermitted child succeeds to the portion of the testator's
 33-29 separate and community estate, other than any portion of the estate
 33-30 devised to the pretermitted child's other parent, to which the
 33-31 pretermitted child would have been entitled under Section 201.001
 33-32 if the testator had died intestate without a surviving spouse,
 33-33 except as limited by Section 255.056.

33-34 SECTION 2.29. Subchapter B, Chapter 255, Estates Code, as
 33-35 effective January 1, 2014, is amended by adding Section 255.056 to
 33-36 read as follows:

33-37 Sec. 255.056. LIMITATION ON REDUCTION OF ESTATE PASSING TO
 33-38 SURVIVING SPOUSE. If a pretermitted child's other parent is not the
 33-39 surviving spouse of the testator, the portion of the testator's
 33-40 estate to which the pretermitted child is entitled under Section
 33-41 255.053(a) or 255.054 may not reduce the portion of the testator's
 33-42 estate passing to the testator's surviving spouse by more than
 33-43 one-half.

33-44 SECTION 2.30. (a) Subsection (a), Section 256.052,
 33-45 Estates Code, as effective January 1, 2014, is amended to read as
 33-46 follows:

33-47 (a) An application for the probate of a written will must
 33-48 state and aver the following to the extent each is known to the
 33-49 applicant or can, with reasonable diligence, be ascertained by the
 33-50 applicant:

33-51 (1) each applicant's name and domicile;
 33-52 (2) the testator's name, domicile, and, if known, age,
 33-53 on the date of the testator's death;
 33-54 (3) the fact, time, and place of the testator's death;
 33-55 (4) facts showing that the court with which the
 33-56 application is filed has venue;
 33-57 (5) that the testator owned property, including a
 33-58 statement generally describing the property and the property's
 33-59 probable value;

33-60 (6) the date of the will;
 33-61 (7) the name and residence of:
 33-62 (A) any executor named in the will or, if no
 33-63 executor is named, of the person to whom the applicant desires that
 33-64 letters be issued; and

33-65 (B) each subscribing witness to the will, if any;
 33-66 (8) whether one or more children born to or adopted by
 33-67 the testator after the testator executed the will survived the
 33-68 testator and, if so, the name of each of those children;
 33-69

34-1 (9) whether a marriage of the testator was ever
34-2 dissolved after the will was made [~~divorced~~] and, if so, when and
34-3 from whom;

34-4 (10) whether the state, a governmental agency of the
34-5 state, or a charitable organization is named in the will as a
34-6 devisee; and

34-7 (11) that the executor named in the will, the
34-8 applicant, or another person to whom the applicant desires that
34-9 letters be issued is not disqualified by law from accepting the
34-10 letters.

34-11 (b) If the amendment to Section 256.052(a), Estates Code,
34-12 made by this section conflicts with an amendment to Section
34-13 256.052(a), Estates Code, made by another Act of the 82nd
34-14 Legislature, Regular Session, 2011, relating to nonsubstantive
34-15 additions to and corrections in enacted codes, the amendment made
34-16 by this section controls, and the amendment made by the other Act
34-17 has no effect.

34-18 SECTION 2.31. Section 256.152, Estates Code, as effective
34-19 January 1, 2014, is amended to read as follows:

34-20 Sec. 256.152. ADDITIONAL PROOF REQUIRED FOR PROBATE OF
34-21 WILL. (a) An applicant for the probate of a will must prove the
34-22 following to the court's satisfaction, in addition to the proof
34-23 required by Section 256.151, to obtain the probate:

- 34-24 (1) the testator did not revoke the will; and
- 34-25 (2) if the will is not self-proved [~~as provided by this~~
34-26 ~~title~~], the testator:

34-27 (A) executed the will with the formalities and
34-28 solemnities and under the circumstances required by law to make the
34-29 will valid; and

34-30 (B) at the time of executing the will, was of
34-31 sound mind and:

- 34-32 (i) was 18 years of age or older;
- 34-33 (ii) was or had been married; or
- 34-34 (iii) was a member of the armed forces of
34-35 the United States, an auxiliary of the armed forces of the United
34-36 States, or the United States Maritime Service.

34-37 (b) A will that is self-proved as provided by Subchapter C,
34-38 Chapter 251, or, if executed in another state or a foreign country,
34-39 is self-proved in accordance with the laws of the state or foreign
34-40 country of the testator's domicile at the time of the execution
34-41 [~~this title~~] is not required to have any additional proof that the
34-42 will was executed with the formalities and solemnities and under
34-43 the circumstances required to make the will valid.

34-44 (c) For purposes of Subsection (b), a will is considered
34-45 self-proved if the will, or an affidavit of the testator and
34-46 attesting witnesses attached or annexed to the will, provides that:

34-47 (1) the testator declared that the testator signed the
34-48 instrument as the testator's will, the testator signed it willingly
34-49 or willingly directed another to sign for the testator, the
34-50 testator executed the will as the testator's free and voluntary act
34-51 for the purposes expressed in the instrument, the testator is of
34-52 sound mind and under no constraint or undue influence, and the
34-53 testator is eighteen years of age or over or, if under that age, was
34-54 or had been lawfully married, or was then a member of the armed
34-55 forces of the United States, an auxiliary of the armed forces of the
34-56 United States, or the United States Maritime Service; and

34-57 (2) the witnesses declared that the testator signed
34-58 the instrument as the testator's will, the testator signed it
34-59 willingly or willingly directed another to sign for the testator,
34-60 each of the witnesses, in the presence and hearing of the testator,
34-61 signed the will as witness to the testator's signing, and to the
34-62 best of their knowledge the testator was of sound mind and under no
34-63 constraint or undue influence, and the testator was eighteen years
34-64 of age or over or, if under that age, was or had been lawfully
34-65 married, or was then a member of the armed forces of the United
34-66 States, an auxiliary of the armed forces of the United States, or
34-67 the United States Maritime Service.

34-68 SECTION 2.32. (a) Subsection (a), Section 257.051,
34-69 Estates Code, as effective January 1, 2014, is amended to read as

35-1 follows:

35-2 (a) An application for the probate of a will as a muniment of
35-3 title must state and aver the following to the extent each is known
35-4 to the applicant or can, with reasonable diligence, be ascertained
35-5 by the applicant:

- 35-6 (1) each applicant's name and domicile;
35-7 (2) the testator's name, domicile, and, if known, age,
35-8 on the date of the testator's death;
35-9 (3) the fact, time, and place of the testator's death;
35-10 (4) facts showing that the court with which the
35-11 application is filed has venue;
35-12 (5) that the testator owned property, including a
35-13 statement generally describing the property and the property's
35-14 probable value;
35-15 (6) the date of the will;
35-16 (7) the name and residence of:
35-17 (A) any executor named in the will; and
35-18 (B) each subscribing witness to the will, if any;
35-19 (8) whether one or more children born to or adopted by
35-20 the testator after the testator executed the will survived the
35-21 testator and, if so, the name of each of those children;
35-22 (9) that the testator's estate does not owe an unpaid
35-23 debt, other than any debt secured by a lien on real estate;
35-24 (10) whether a marriage of the testator was ever
35-25 dissolved after the will was made [~~divorced~~] and, if so, when and
35-26 from whom; and
35-27 (11) whether the state, a governmental agency of the
35-28 state, or a charitable organization is named in the will as a
35-29 devisee.

35-30 (b) If the amendment to Section 257.051(a), Estates Code,
35-31 made by this section conflicts with an amendment to Section
35-32 257.051(a), Estates Code, made by another Act of the 82nd
35-33 Legislature, Regular Session, 2011, relating to nonsubstantive
35-34 additions to and corrections in enacted codes, the amendment made
35-35 by this section controls, and the amendment made by the other Act
35-36 has no effect.

35-37 SECTION 2.33. Section 308.001, Estates Code, as effective
35-38 January 1, 2014, is amended to read as follows:

35-39 Sec. 308.001. DEFINITION. In this subchapter,
35-40 "beneficiary" means a person, entity, state, governmental agency of
35-41 the state, charitable organization, or trustee of a trust entitled
35-42 to receive property under the terms of a decedent's will, to be
35-43 determined for purposes of this subchapter with the assumption that
35-44 each person who is alive on the date of the decedent's death
35-45 survives any period required to receive the bequest as specified by
35-46 the terms of the will. The term does not include a person, entity,
35-47 state, governmental agency of the state, charitable organization,
35-48 or trustee of a trust that would be entitled to receive property
35-49 under the terms of a decedent's will on the occurrence of a
35-50 contingency that has not occurred as of the date of the decedent's
35-51 death.

35-52 SECTION 2.34. Subchapter A, Chapter 308, Estates Code, as
35-53 effective January 1, 2014, is amended by adding Section 308.0015 to
35-54 read as follows:

35-55 Sec. 308.0015. APPLICATION. This subchapter does not apply
35-56 to the probate of a will as a muniment of title.

35-57 SECTION 2.35. Section 308.002, Estates Code, as effective
35-58 January 1, 2014, is amended by amending Subsections (b) and (c) and
35-59 adding Subsection (b-1) to read as follows:

35-60 (b) Notwithstanding the requirement under Subsection (a)
35-61 that the personal representative give the notice to the
35-62 beneficiary, the representative shall give the notice with respect
35-63 to a beneficiary described by this subsection as follows:

- 35-64 (1) if the beneficiary is a trustee of a trust, to the
35-65 trustee, unless the representative is the trustee, in which case
35-66 the representative shall, except as provided by Subsection (b-1),
35-67 give the notice to the person or class of persons first eligible to
35-68 receive the trust income, to be determined for purposes of this
35-69 subdivision as if the trust were in existence on the date of the

36-1 decedent's death;
 36-2 (2) if the beneficiary has a court-appointed guardian
 36-3 or conservator, to that guardian or conservator;
 36-4 (3) if the beneficiary is a minor for whom no guardian
 36-5 or conservator has been appointed, to a parent of the minor; and
 36-6 (4) if the beneficiary is a charity that for any reason
 36-7 cannot be notified, to the attorney general.

36-8 (b-1) The personal representative is not required to give
 36-9 the notice otherwise required by Subsection (b)(1) to a person
 36-10 eligible to receive trust income at the sole discretion of the
 36-11 trustee of a trust if:

36-12 (1) the representative has given the notice to an
 36-13 ancestor of the person who has a similar interest in the trust; and

36-14 (2) no apparent conflict exists between the ancestor
 36-15 and the person eligible to receive trust income.

36-16 (c) A personal representative is not required to give the
 36-17 notice otherwise required by this section to a beneficiary who:

36-18 (1) has made an appearance in the proceeding with
 36-19 respect to the decedent's estate before the will was admitted to
 36-20 probate; [~~or~~]

36-21 (2) is entitled to receive aggregate gifts under the
 36-22 will with an estimated value of \$2,000 or less;

36-23 (3) has received all gifts to which the beneficiary is
 36-24 entitled under the will not later than the 60th day after the date
 36-25 of the order admitting the decedent's will to probate; or

36-26 (4) has received a copy of the will that was admitted
 36-27 to probate or a written summary of the gifts to the beneficiary
 36-28 under the will and has waived the right to receive the notice in an
 36-29 instrument that:

36-30 (A) either acknowledges the receipt of the copy
 36-31 of the will or includes the written summary of the gifts to the
 36-32 beneficiary under the will;

36-33 (B) is signed by the beneficiary; and

36-34 (C) is filed with the court.

36-35 SECTION 2.36. Section 308.003, Estates Code, as effective
 36-36 January 1, 2014, is amended to read as follows:

36-37 Sec. 308.003. CONTENTS OF NOTICE. The notice required by
 36-38 Section 308.002 must include:

36-39 (1) ~~state:~~

36-40 ~~[(A)]~~ the name and address of the beneficiary to
 36-41 whom the notice is given or, for a beneficiary described by Section
 36-42 308.002(b), the name and address of the beneficiary for whom the
 36-43 notice is given and of the person to whom the notice is given;

36-44 (2) ~~[(B)]~~ the decedent's name;

36-45 (3) a statement ~~[(C)]~~ that the decedent's will has been
 36-46 admitted to probate;

36-47 (4) a statement ~~[(D)]~~ that the beneficiary to whom or
 36-48 for whom the notice is given is named as a beneficiary in the will;
 36-49 ~~[and]~~

36-50 (5) ~~[(E)]~~ the personal representative's name and
 36-51 contact information; and

36-52 (6) either:

36-53 (A) ~~[(2) contain as attachments]~~ a copy of the
 36-54 will that was admitted to probate and of the order admitting the
 36-55 will to probate; or

36-56 (B) a summary of the gifts to the beneficiary
 36-57 under the will, the court in which the will was admitted to probate,
 36-58 the docket number assigned to the estate, the date the will was
 36-59 admitted to probate, and, if different, the date the court
 36-60 appointed the personal representative.

36-61 SECTION 2.37. Section 308.004, Estates Code, as effective
 36-62 January 1, 2014, is amended to read as follows:

36-63 Sec. 308.004. AFFIDAVIT OR CERTIFICATE. (a) Not later
 36-64 than the 90th day after the date of an order admitting a will to
 36-65 probate, the personal representative shall file with the clerk of
 36-66 the court in which the decedent's estate is pending a sworn
 36-67 affidavit of the representative or a certificate signed by the
 36-68 representative's attorney stating:

36-69 (1) for each beneficiary to whom notice was required

37-1 to be given under this subchapter, the name and address of the
 37-2 beneficiary to whom the representative gave the notice or, for a
 37-3 beneficiary described by Section 308.002(b), the name and address
 37-4 of the beneficiary and of the person to whom the notice was given;

37-5 (2) the name and address of each beneficiary to whom
 37-6 notice was not required to be given under Section 308.002(c)(2),
 37-7 (3), or (4) ~~[who filed a waiver of the notice]~~;

37-8 (3) the name of each beneficiary whose identity or
 37-9 address could not be ascertained despite the representative's
 37-10 exercise of reasonable diligence; and

37-11 (4) any other information necessary to explain the
 37-12 representative's inability to give the notice to or for any
 37-13 beneficiary as required by this subchapter.

37-14 (b) The affidavit or certificate required by Subsection (a)
 37-15 may be included with any pleading or other document filed with the
 37-16 court clerk, including the inventory, appraisalment, and list of
 37-17 claims, an affidavit in lieu of the inventory, appraisalment, and
 37-18 list of claims, or an application for an extension of the deadline
 37-19 to file the inventory, appraisalment, and list of claims or an
 37-20 affidavit in lieu of the inventory, appraisalment, and list of
 37-21 claims, provided that the pleading or other document is filed not
 37-22 later than the date the affidavit or certificate is required to be
 37-23 filed under Subsection (a).

37-24 SECTION 2.38. The heading to Subchapter B, Chapter 309,
 37-25 Estates Code, as effective January 1, 2014, is amended to read as
 37-26 follows:

37-27 SUBCHAPTER B. REQUIREMENTS FOR INVENTORY, APPRAISEMENT, AND LIST
 37-28 OF CLAIMS; AFFIDAVIT IN LIEU OF INVENTORY, APPRAISEMENT, AND LIST
 37-29 OF CLAIMS

37-30 SECTION 2.39. Subsection (a), Section 309.051, Estates
 37-31 Code, as effective January 1, 2014, is amended to read as follows:

37-32 (a) Except as provided by Subsection (c) or unless a longer
 37-33 period is granted by the court, before the 91st day after the date
 37-34 the personal representative qualifies, the representative shall
 37-35 prepare and file with the court clerk a single written instrument
 37-36 that contains a verified, full, and detailed inventory of all
 37-37 estate property that has come into the representative's possession
 37-38 or of which the representative has knowledge. The inventory must:

37-39 (1) include:
 37-40 (A) all estate real property located in this
 37-41 state; and

37-42 (B) all estate personal property regardless of
 37-43 where the property is located; and

37-44 (2) specify~~+~~
 37-45 ~~[(A)]~~ which portion of the property, if any, is
 37-46 separate property and which, if any, is community property~~+, and~~
 37-47 ~~[(B) if estate property is owned in common with~~
 37-48 ~~others, the interest of the estate in that property and the names~~
 37-49 ~~and relationship, if known, of the co-owners].~~

37-50 SECTION 2.40. Section 309.052, Estates Code, as effective
 37-51 January 1, 2014, is amended to read as follows:

37-52 Sec. 309.052. LIST OF CLAIMS. A complete list of claims due
 37-53 or owing to the estate must be attached to the inventory and
 37-54 appraisalment required by Section 309.051. The list of claims must
 37-55 state:

37-56 (1) the name and, if known, address of each person
 37-57 indebted to the estate; and

37-58 (2) regarding each claim:
 37-59 (A) the nature of the debt, whether by note,
 37-60 bill, bond, or other written obligation, or by account or verbal
 37-61 contract;

37-62 (B) the date the debt was incurred;

37-63 (C) the date the debt was or is due;

37-64 (D) the amount of the claim, the rate of interest
 37-65 on the claim, and the period for which the claim bears interest; and

37-66 (E) whether the claim is separate property or
 37-67 community property~~+, and~~

37-68 ~~[(F) if any portion of the claim is held in common~~
 37-69 ~~with others, the interest of the estate in the claim and the names~~

38-1 ~~and relationships, if any, of the other part owners]~~.

38-2 SECTION 2.41. Section 309.055, Estates Code, as effective
38-3 January 1, 2014, is amended to read as follows:

38-4 Sec. 309.055. FAILURE OF JOINT PERSONAL REPRESENTATIVES TO
38-5 FILE INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS OR AFFIDAVIT IN
38-6 LIEU OF INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS. (a) If more
38-7 than one personal representative qualifies to serve, any one or
38-8 more of the representatives, on the neglect of the other
38-9 representatives, may make and file an inventory, appraisalment, and
38-10 list of claims or an affidavit in lieu of an inventory,
38-11 appraisalment, and list of claims.

38-12 (b) A personal representative who neglects to make or file
38-13 an inventory, appraisalment, and list of claims or an affidavit in
38-14 lieu of an inventory, appraisalment, and list of claims may not
38-15 interfere with and does not have any power over the estate after
38-16 another representative makes and files an inventory, appraisalment,
38-17 and list of claims or an affidavit in lieu of an inventory,
38-18 appraisalment, and list of claims.

38-19 (c) The personal representative who files the inventory,
38-20 appraisalment, and list of claims or the affidavit in lieu of an
38-21 inventory, appraisalment, and list of claims is entitled to the
38-22 whole administration unless, before the 61st day after the date the
38-23 representative files the inventory, appraisalment, and list of
38-24 claims or the affidavit in lieu of an inventory, appraisalment, and
38-25 list of claims, one or more delinquent representatives file with
38-26 the court a written, sworn, and reasonable excuse that the court
38-27 considers satisfactory. The court shall enter an order removing
38-28 one or more delinquent representatives and revoking those
38-29 representatives' letters if:

38-30 (1) an excuse is not filed; or

38-31 (2) the court does not consider the filed excuse
38-32 sufficient.

38-33 SECTION 2.42. Subchapter B, Chapter 309, Estates Code, as
38-34 effective January 1, 2014, is amended by adding Section 309.056 to
38-35 read as follows:

38-36 Sec. 309.056. AFFIDAVIT IN LIEU OF INVENTORY, APPRAISEMENT,
38-37 AND LIST OF CLAIMS. (a) In this section, "beneficiary" means a
38-38 person, entity, state, governmental agency of the state, charitable
38-39 organization, or trust entitled to receive property:

38-40 (1) under the terms of a decedent's will, to be
38-41 determined for purposes of this section with the assumption that
38-42 each person who is alive on the date of the decedent's death
38-43 survives any period required to receive the bequest as specified by
38-44 the terms of the will; or

38-45 (2) as an heir of the decedent.

38-46 (b) Notwithstanding Sections 309.051 and 309.052, if there
38-47 are no unpaid debts, except for secured debts, taxes, and
38-48 administration expenses, at the time the inventory is due,
38-49 including any extensions, an independent executor may file with the
38-50 court clerk, in lieu of the inventory, appraisalment, and list of
38-51 claims, an affidavit stating that all debts, except for secured
38-52 debts, taxes, and administration expenses, are paid and that all
38-53 beneficiaries have received a verified, full, and detailed
38-54 inventory and appraisalment. The affidavit in lieu of the
38-55 inventory, appraisalment, and list of claims must be filed within
38-56 the 90-day period prescribed by Section 309.051(a), unless the
38-57 court grants an extension.

38-58 (c) If the independent executor files an affidavit in lieu
38-59 of the inventory, appraisalment, and list of claims as authorized
38-60 under Subsection (b):

38-61 (1) any person interested in the estate, including a
38-62 possible heir of the decedent or a beneficiary under a prior will of
38-63 the decedent, is entitled to receive a copy of the inventory,
38-64 appraisalment, and list of claims from the independent executor on
38-65 written request;

38-66 (2) the independent executor may provide a copy of the
38-67 inventory, appraisalment, and list of claims to any person the
38-68 independent executor believes in good faith may be a person
38-69 interested in the estate without liability to the estate or its

39-1 beneficiaries; and
 39-2 (3) a person interested in the estate may apply to the
 39-3 court for an order compelling compliance with Subdivision (1), and
 39-4 the court, in its discretion, may compel the independent executor
 39-5 to provide a copy of the inventory, appraisalment, and list of claims
 39-6 to the interested person or may deny the application.

39-7 SECTION 2.43. Section 309.101, Estates Code, as effective
 39-8 January 1, 2014, is amended to read as follows:

39-9 Sec. 309.101. DISCOVERY OF ADDITIONAL PROPERTY OR CLAIMS.
 39-10 (a) If after the filing of the inventory, appraisalment, and list
 39-11 of claims the personal representative acquires possession or
 39-12 knowledge of property or claims of the estate not included in the
 39-13 inventory, appraisalment, and list of claims the representative
 39-14 shall promptly file with the court clerk a verified, full, and
 39-15 detailed supplemental inventory, appraisalment, and list of claims.

39-16 (b) If after the filing of the affidavit in lieu of the
 39-17 inventory, appraisalment, and list of claims the personal
 39-18 representative acquires possession or knowledge of property or
 39-19 claims of the estate not included in the inventory and appraisalment
 39-20 given to the beneficiaries, the representative shall promptly file
 39-21 with the court clerk a supplemental affidavit in lieu of the
 39-22 inventory, appraisalment, and list of claims stating that all
 39-23 beneficiaries have received a verified, full, and detailed
 39-24 supplemental inventory and appraisalment.

39-25 SECTION 2.44. Section 352.004, Estates Code, as effective
 39-26 January 1, 2014, is amended to read as follows:

39-27 Sec. 352.004. DENIAL OF COMPENSATION. The court may, on
 39-28 application of an interested person or on the court's own motion,
 39-29 wholly or partly deny a commission allowed by this subchapter if:

39-30 (1) the court finds that the executor or administrator
 39-31 has not taken care of and managed estate property prudently; or

39-32 (2) the executor or administrator has been removed
 39-33 under Section 149C or Subchapter B, Chapter 361.

39-34 SECTION 2.45. Subsections (a) and (b), Section 353.051,
 39-35 Estates Code, as effective January 1, 2014, are amended to read as
 39-36 follows:

39-37 (a) Unless an application and verified affidavit are filed
 39-38 as provided by Subsection (b), immediately after the inventory,
 39-39 appraisalment, and list of claims of an estate are approved or after
 39-40 the affidavit in lieu of the inventory, appraisalment, and list of
 39-41 claims is filed, the court by order shall set aside:

39-42 (1) the homestead for the use and benefit of the
 39-43 decedent's surviving spouse and minor children; and

39-44 (2) all other estate property that is exempt from
 39-45 execution or forced sale by the constitution and laws of this state
 39-46 for the use and benefit of the decedent's:

39-47 (A) surviving spouse and minor children; and

39-48 (B) unmarried children remaining with the
 39-49 decedent's family.

39-50 (b) Before the inventory, appraisalment, and list of claims
 39-51 of an estate are approved or, if applicable, before the affidavit in
 39-52 lieu of the inventory, appraisalment, and list of claims is filed:

39-53 (1) the decedent's surviving spouse or any other
 39-54 person authorized to act on behalf of the decedent's minor children
 39-55 may apply to the court to have exempt property, including the
 39-56 homestead, set aside by filing an application and a verified
 39-57 affidavit listing all property that the applicant claims is exempt;
 39-58 and

39-59 (2) any of the decedent's unmarried children remaining
 39-60 with the decedent's family may apply to the court to have all exempt
 39-61 property, other than the homestead, set aside by filing an
 39-62 application and a verified affidavit listing all property, other
 39-63 than the homestead, that the applicant claims is exempt.

39-64 SECTION 2.46. Subsections (a) and (b), Section 353.101,
 39-65 Estates Code, as effective January 1, 2014, are amended to read as
 39-66 follows:

39-67 (a) Unless an application and verified affidavit are filed
 39-68 as provided by Subsection (b), immediately after the inventory,
 39-69 appraisalment, and list of claims of an estate are approved or after

40-1 the affidavit in lieu of the inventory, appraisalment, and list of
 40-2 claims is filed, the court shall fix a family allowance for the
 40-3 support of the decedent's surviving spouse and minor children.

40-4 (b) Before the inventory, appraisalment, and list of claims
 40-5 of an estate are approved or, if applicable, before the affidavit in
 40-6 lieu of the inventory, appraisalment, and list of claims is filed,
 40-7 the decedent's surviving spouse or any other person authorized to
 40-8 act on behalf of the decedent's minor children may apply to the
 40-9 court to have the court fix the family allowance by filing an
 40-10 application and a verified affidavit describing:

40-11 (1) the amount necessary for the maintenance of the
 40-12 surviving spouse and the decedent's minor children for one year
 40-13 after the date of the decedent's death; and

40-14 (2) the surviving spouse's separate property and any
 40-15 property that the decedent's minor children have in their own
 40-16 right.

40-17 SECTION 2.47. Subsection (a), Section 353.107, Estates
 40-18 Code, as effective January 1, 2014, is amended to read as follows:

40-19 (a) The court shall, as soon as the inventory, appraisalment,
 40-20 and list of claims are returned and approved or the affidavit in
 40-21 lieu of the inventory, appraisalment, and list of claims is filed,
 40-22 order the sale of estate property for cash in an amount that will be
 40-23 sufficient to raise the amount of the family allowance, or a portion
 40-24 of that amount, as necessary, if:

40-25 (1) the decedent had no personal property that the
 40-26 surviving spouse or the guardian of the decedent's minor children
 40-27 is willing to take for the family allowance or the decedent had
 40-28 insufficient personal property; and

40-29 (2) there are not sufficient estate funds in the
 40-30 executor's or administrator's possession to pay the amount of the
 40-31 family allowance or a portion of that amount, as applicable.

40-32 SECTION 2.48. Subsection (a), Section 354.001, Estates
 40-33 Code, as effective January 1, 2014, is amended to read as follows:

40-34 (a) If, after a personal representative of an estate has
 40-35 filed the inventory, appraisalment, and list of claims or the
 40-36 affidavit in lieu of the inventory, appraisalment, and list of
 40-37 claims as provided [required] by Chapter 309, it is established
 40-38 that the decedent's estate, excluding any homestead, exempt
 40-39 property, and family allowance to the decedent's surviving spouse
 40-40 and minor children, does not exceed the amount sufficient to pay the
 40-41 claims against the estate classified as Classes 1 through 4 under
 40-42 Section 355.102, the representative shall:

40-43 (1) on order of the court, pay those claims in the
 40-44 order provided and to the extent permitted by the assets of the
 40-45 estate subject to the payment of those claims; and

40-46 (2) after paying the claims in accordance with
 40-47 Subdivision (1), present to the court the representative's account
 40-48 with an application for the settlement and allowance of the
 40-49 account.

40-50 SECTION 2.49. Subsection (a), Section 360.253, Estates
 40-51 Code, as effective January 1, 2014, is amended to read as follows:

40-52 (a) If a spouse dies leaving community property, the
 40-53 surviving spouse, at any time after letters testamentary or of
 40-54 administration have been granted and an inventory, appraisalment,
 40-55 and list of claims of the estate have been returned or an affidavit
 40-56 in lieu of the inventory, appraisalment, and list of claims has been
 40-57 filed, may apply in writing to the court that granted the letters
 40-58 for a partition of the community property.

40-59 SECTION 2.50. The heading to Section 361.155, Estates Code,
 40-60 as effective January 1, 2014, is amended to read as follows:

40-61 Sec. 361.155. SUCCESSOR REPRESENTATIVE TO RETURN
 40-62 INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS OR AFFIDAVIT IN LIEU OF
 40-63 INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS.

40-64 SECTION 2.51. Subsection (a), Section 361.155, Estates
 40-65 Code, as effective January 1, 2014, is amended to read as follows:

40-66 (a) An appointee who has qualified to succeed a former
 40-67 personal representative, before the 91st day after the date the
 40-68 personal representative qualifies, shall make and return to the
 40-69 court an inventory, appraisalment, and list of claims of the estate

41-1 or, if the appointee is an independent executor, shall make and
 41-2 return to the court that document or file an affidavit in lieu of
 41-3 the inventory, appraisal, and list of claims [before the 91st
 41-4 day after the date the personal representative qualifies], in the
 41-5 manner provided for [required of] an original appointee, and shall
 41-6 also return additional inventories, appraisements, and lists of
 41-7 claims and additional affidavits in the manner provided for
 41-8 [required of] an original appointee.

41-9 SECTION 2.52. Subtitle I, Title 2, Estates Code, as
 41-10 effective January 1, 2014, is amended by adding Chapters 401, 402,
 41-11 403, 404, and 405 to read as follows:

41-12 CHAPTER 401. CREATION

41-13 Sec. 401.001. EXPRESSION OF TESTATOR'S INTENT IN WILL.

41-14 (a) Any person capable of making a will may provide in the person's
 41-15 will that no other action shall be had in the probate court in
 41-16 relation to the settlement of the person's estate than the
 41-17 probating and recording of the will and the return of an inventory,
 41-18 appraisal, and list of claims of the person's estate.

41-19 (b) Any person capable of making a will may provide in the
 41-20 person's will that no independent administration of his or her
 41-21 estate may be allowed. In such case the person's estate, if
 41-22 administered, shall be administered and settled under the direction
 41-23 of the probate court as other estates are required to be settled and
 41-24 not as an independent administration.

41-25 Sec. 401.002. CREATION IN TESTATE ESTATE BY AGREEMENT.

41-26 (a) Except as provided in Section 401.001(b), if a decedent's will
 41-27 names an executor but the will does not provide for independent
 41-28 administration as provided in Section 401.001(a), all of the
 41-29 distributees of the decedent may agree on the advisability of
 41-30 having an independent administration and collectively designate in
 41-31 the application for probate of the decedent's will the executor
 41-32 named in the will to serve as independent executor and request in
 41-33 the application that no other action shall be had in the probate
 41-34 court in relation to the settlement of the decedent's estate other
 41-35 than the probating and recording of the decedent's will and the
 41-36 return of an inventory, appraisal, and list of claims of the
 41-37 decedent's estate. In such case the probate court shall enter an
 41-38 order granting independent administration and appointing the
 41-39 person, firm, or corporation designated in the application as
 41-40 independent executor, unless the court finds that it would not be in
 41-41 the best interest of the estate to do so.

41-42 (b) Except as provided in Section 401.001(b), in situations
 41-43 where no executor is named in the decedent's will, or in situations
 41-44 where each executor named in the will is deceased or is disqualified
 41-45 to serve as executor or indicates by affidavit filed with the
 41-46 application for administration of the decedent's estate the
 41-47 executor's inability or unwillingness to serve as executor, all of
 41-48 the distributees of the decedent may agree on the advisability of
 41-49 having an independent administration and collectively designate in
 41-50 the application for probate of the decedent's will a qualified
 41-51 person, firm, or corporation to serve as independent administrator
 41-52 and request in the application that no other action shall be had in
 41-53 the probate court in relation to the settlement of the decedent's
 41-54 estate other than the probating and recording of the decedent's
 41-55 will and the return of an inventory, appraisal, and list of
 41-56 claims of the decedent's estate. In such case the probate court
 41-57 shall enter an order granting independent administration and
 41-58 appointing the person, firm, or corporation designated in the
 41-59 application as independent administrator, unless the court finds
 41-60 that it would not be in the best interest of the estate to do so.

41-61 Sec. 401.003. CREATION IN INTESTATE ESTATE BY AGREEMENT.

41-62 (a) All of the distributees of a decedent dying intestate may
 41-63 agree on the advisability of having an independent administration
 41-64 and collectively designate in the application for administration of
 41-65 the decedent's estate a qualified person, firm, or corporation to
 41-66 serve as independent administrator and request in the application
 41-67 that no other action shall be had in the probate court in relation
 41-68 to the settlement of the decedent's estate other than the return of
 41-69 an inventory, appraisal, and list of claims of the decedent's

42-1 estate. In such case the probate court shall enter an order
42-2 granting independent administration and appointing the person,
42-3 firm, or corporation designated in the application as independent
42-4 administrator, unless the court finds that it would not be in the
42-5 best interest of the estate to do so.

42-6 (b) The court may not appoint an independent administrator
42-7 to serve in an intestate administration unless and until the
42-8 parties seeking appointment of the independent administrator have
42-9 been determined, through a proceeding to declare heirship under
42-10 Chapter 202, to constitute all of the decedent's heirs.

42-11 Sec. 401.004. MEANS OF ESTABLISHING DISTRIBUTEE CONSENT.
42-12 (a) This section applies to the creation of an independent
42-13 administration under Section 401.002 or 401.003.

42-14 (b) All distributees shall be served with citation and
42-15 notice of the application for independent administration unless the
42-16 distributee waives the issuance or service of citation or enters an
42-17 appearance in court.

42-18 (c) If a distributee is an incapacitated person, the
42-19 guardian of the person of the distributee may sign the application
42-20 on behalf of the distributee. If the probate court finds that
42-21 either the granting of independent administration or the
42-22 appointment of the person, firm, or corporation designated in the
42-23 application as independent executor would not be in the best
42-24 interest of the incapacitated person, then, notwithstanding
42-25 anything to the contrary in Section 401.002 or 401.003, the court
42-26 may not enter an order granting independent administration of the
42-27 estate. If a distributee who is an incapacitated person has no
42-28 guardian of the person, the probate court may appoint a guardian ad
42-29 litem to make application on behalf of the incapacitated person if
42-30 the court considers such an appointment necessary to protect the
42-31 interest of the distributees. Alternatively, if the distributee
42-32 who is an incapacitated person is a minor and has no guardian of the
42-33 person, the natural guardian or guardians of the minor may consent
42-34 on the minor's behalf if there is no conflict of interest between
42-35 the minor and the natural guardian or guardians.

42-36 (d) If a trust is created in the decedent's will, the person
42-37 or class of persons first eligible to receive the income from the
42-38 trust, when determined as if the trust were to be in existence on
42-39 the date of the decedent's death, shall, for the purposes of Section
42-40 401.002, be considered to be the distributee or distributees on
42-41 behalf of the trust, and any other trust or trusts coming into
42-42 existence on the termination of the trust, and are authorized to
42-43 apply for independent administration on behalf of the trusts
42-44 without the consent or agreement of the trustee or any other
42-45 beneficiary of the trust, or the trustee or any beneficiary of any
42-46 other trust which may come into existence on the termination of the
42-47 trust. If a trust beneficiary who is considered to be a distributee
42-48 under this subsection is an incapacitated person, the trustee or
42-49 cotrustee may file the application or give the consent, provided
42-50 that the trustee or cotrustee is not the person proposed to serve as
42-51 the independent executor.

42-52 (e) If a life estate is created either in the decedent's
42-53 will or by law, the life tenant or life tenants, when determined as
42-54 if the life estate were to commence on the date of the decedent's
42-55 death, shall, for the purposes of Section 401.002 or 401.003, be
42-56 considered to be the distributee or distributees on behalf of the
42-57 entire estate created, and are authorized to apply for independent
42-58 administration on behalf of the estate without the consent or
42-59 approval of any remainderman.

42-60 (f) If a decedent's will contains a provision that a
42-61 distributee must survive the decedent by a prescribed period of
42-62 time in order to take under the decedent's will, then, for the
42-63 purposes of determining who shall be the distributee under Section
42-64 401.002 and under Subsection (c), it shall be presumed that the
42-65 distributees living at the time of the filing of the application for
42-66 probate of the decedent's will survived the decedent by the
42-67 prescribed period.

42-68 (g) In the case of all decedents, whether dying testate or
42-69 intestate, for the purposes of determining who shall be the

43-1 distributees under Section 401.002 or 401.003 and under Subsection
 43-2 (c), it shall be presumed that no distributee living at the time the
 43-3 application for independent administration is filed shall
 43-4 subsequently disclaim any portion of the distributee's interest in
 43-5 the decedent's estate.

43-6 (h) If a distributee of a decedent's estate dies and if by
 43-7 virtue of the distributee's death the distributee's share of the
 43-8 decedent's estate becomes payable to the distributee's estate, the
 43-9 deceased distributee's personal representative may sign the
 43-10 application for independent administration of the decedent's
 43-11 estate under Section 401.002 or 401.003 and under Subsection (c).

43-12 Sec. 401.005. BOND; WAIVER OF BOND. (a) If an independent
 43-13 administration of a decedent's estate is created under Section
 43-14 401.002 or 401.003, then, unless the probate court waives bond on
 43-15 application for waiver, the independent executor shall be required
 43-16 to enter into bond payable to and to be approved by the judge and the
 43-17 judge's successors in a sum that is found by the judge to be
 43-18 adequate under all circumstances, or a bond with one surety in a sum
 43-19 that is found by the judge to be adequate under all circumstances,
 43-20 if the surety is an authorized corporate surety.

43-21 (b) This section does not repeal any other section of this
 43-22 title.

43-23 Sec. 401.006. GRANTING POWER OF SALE BY AGREEMENT. In a
 43-24 situation in which a decedent does not have a will, or a decedent's
 43-25 will does not contain language authorizing the personal
 43-26 representative to sell real property or contains language that is
 43-27 not sufficient to grant the representative that authority, the
 43-28 court may include in an order appointing an independent executor
 43-29 under Section 401.002 or 401.003 any general or specific authority
 43-30 regarding the power of the independent executor to sell real
 43-31 property that may be consented to by the beneficiaries who are to
 43-32 receive any interest in the real property in the application for
 43-33 independent administration or in their consents to the independent
 43-34 administration. The independent executor, in such event, may sell
 43-35 the real property under the authority granted in the court order
 43-36 without the further consent of those beneficiaries.

43-37 Sec. 401.007. NO LIABILITY OF JUDGE. Absent proof of fraud
 43-38 or collusion on the part of a judge, no judge may be held civilly
 43-39 liable for the commission of misdeeds or the omission of any
 43-40 required act of any person, firm, or corporation designated as an
 43-41 independent executor under Section 401.002 or 401.003. Section
 43-42 351.354 does not apply to the appointment of an independent
 43-43 executor under Section 401.002 or 401.003.

43-44 Sec. 401.008. PERSON DECLINING TO SERVE. A person who
 43-45 declines to serve or resigns as independent executor of a
 43-46 decedent's estate may be appointed an executor or administrator of
 43-47 the estate if the estate will be administered and settled under the
 43-48 direction of the court.

43-49 CHAPTER 402. ADMINISTRATION 43-50 SUBCHAPTER A. GENERAL PROVISIONS

43-51 Sec. 402.001. GENERAL SCOPE AND EXERCISE OF POWERS. When an
 43-52 independent administration has been created, and the order
 43-53 appointing an independent executor has been entered by the probate
 43-54 court, and the inventory, appraisement, and list of claims has been
 43-55 filed by the independent executor and approved by the court or an
 43-56 affidavit in lieu of the inventory, appraisement, and list of
 43-57 claims has been filed by the independent executor, as long as the
 43-58 estate is represented by an independent executor, further action of
 43-59 any nature may not be had in the probate court except where this
 43-60 title specifically and explicitly provides for some action in the
 43-61 court.

43-62 Sec. 402.002. INDEPENDENT EXECUTORS MAY ACT WITHOUT COURT
 43-63 APPROVAL. Unless this title specifically provides otherwise, any
 43-64 action that a personal representative subject to court supervision
 43-65 may take with or without a court order may be taken by an
 43-66 independent executor without a court order. The other provisions
 43-67 of this subtitle are designed to provide additional guidance
 43-68 regarding independent administrations in specified situations, and
 43-69 are not designed to limit by omission or otherwise the application

44-1 of the general principles set forth in this chapter.

44-2 [Sections 402.003-402.050 reserved for expansion]

44-3 SUBCHAPTER B. POWER OF SALE

44-4 Sec. 402.051. DEFINITION OF INDEPENDENT EXECUTOR. In this
 44-5 subchapter, "independent executor" does not include an independent
 44-6 administrator.

44-7 Sec. 402.052. POWER OF SALE OF ESTATE PROPERTY GENERALLY.
 44-8 Unless limited by the terms of a will, an independent executor, in
 44-9 addition to any power of sale of estate property given in the will,
 44-10 and an independent administrator have the same power of sale for the
 44-11 same purposes as a personal representative has in a supervised
 44-12 administration, but without the requirement of court approval. The
 44-13 procedural requirements applicable to a supervised administration
 44-14 do not apply.

44-15 Sec. 402.053. PROTECTION OF PERSON PURCHASING ESTATE
 44-16 PROPERTY. (a) A person who is not a devisee or heir is not
 44-17 required to inquire into the power of sale of estate property of the
 44-18 independent executor or independent administrator or the propriety
 44-19 of the exercise of the power of sale if the person deals with the
 44-20 independent executor or independent administrator in good faith
 44-21 and:

44-22 (1) a power of sale is granted to the independent
 44-23 executor in the will;

44-24 (2) a power of sale is granted under Section 401.006 in
 44-25 the court order appointing the independent executor or independent
 44-26 administrator; or

44-27 (3) the independent executor or independent
 44-28 administrator provides an affidavit, executed and sworn to under
 44-29 oath and recorded in the deed records of the county where the
 44-30 property is located, that the sale is necessary or advisable for any
 44-31 of the purposes described in Section 356.251(1).

44-32 (b) As to acts undertaken in good faith reliance, the
 44-33 affidavit described by Subsection (a)(3) is conclusive proof, as
 44-34 between a purchaser of property from the estate, and the personal
 44-35 representative of an estate or the heirs and distributees of the
 44-36 estate, with respect to the authority of the independent executor
 44-37 or independent administrator to sell the property. The signature
 44-38 or joinder of a devisee or heir who has an interest in the property
 44-39 being sold as described in this section is not necessary for the
 44-40 purchaser to obtain all right, title, and interest of the estate in
 44-41 the property being sold.

44-42 (c) This subchapter does not relieve the independent
 44-43 executor or independent administrator from any duty owed to a
 44-44 devisee or heir in relation, directly or indirectly, to the sale.

44-45 Sec. 402.054. NO LIMITATION ON OTHER ACTION. This
 44-46 subchapter does not limit the authority of an independent executor
 44-47 to take any other action without court supervision or approval with
 44-48 respect to estate assets that may take place in a supervised
 44-49 administration, for purposes and within the scope otherwise
 44-50 authorized by this title, including the authority to enter into a
 44-51 lease and to borrow money.

44-52 CHAPTER 403. EXEMPTIONS AND ALLOWANCES; CLAIMS

44-53 SUBCHAPTER A. EXEMPTIONS AND ALLOWANCES

44-54 Sec. 403.001. SETTING ASIDE EXEMPT PROPERTY AND ALLOWANCES.
 44-55 The independent executor shall set aside and deliver to those
 44-56 entitled exempt property and allowances for support, and allowances
 44-57 in lieu of exempt property, as prescribed in this title, to the same
 44-58 extent and result as if the independent executor's actions had been
 44-59 accomplished in, and under orders of, the court.

44-60 [Sections 403.002-403.050 reserved for expansion]

44-61 SUBCHAPTER B. CLAIMS

44-62 Sec. 403.051. DUTY OF INDEPENDENT EXECUTOR. (a) An
 44-63 independent executor, in the administration of an estate,
 44-64 independently of and without application to, or any action in or by
 44-65 the court:

44-66 (1) shall give the notices required under Sections
 44-67 308.051 and 308.053;

44-68 (2) may give the notice to an unsecured creditor with a
 44-69 claim for money permitted under Section 308.054 and bar a claim

45-1 under Section 403.055; and

45-2 (3) may approve or reject any claim, or take no action
 45-3 on a claim, and shall classify and pay claims approved or
 45-4 established by suit against the estate in the same order of
 45-5 priority, classification, and proration prescribed in this title.

45-6 (b) To be effective, the notice prescribed under Subsection
 45-7 (a)(2) must include, in addition to the other information required
 45-8 by Section 308.054, a statement that a claim may be effectively
 45-9 presented by only one of the methods prescribed by this subchapter.

45-10 Sec. 403.052. SECURED CLAIMS FOR MONEY. Within six months
 45-11 after the date letters are granted or within four months after the
 45-12 date notice is received under Section 308.053, whichever is later,
 45-13 a creditor with a claim for money secured by property of the estate
 45-14 must give notice to the independent executor of the creditor's
 45-15 election to have the creditor's claim approved as a matured secured
 45-16 claim to be paid in due course of administration. In addition to
 45-17 giving the notice within this period, a creditor whose claim is
 45-18 secured by real property shall record a notice of the creditor's
 45-19 election under this section in the deed records of the county in
 45-20 which the real property is located. If no election to be a matured
 45-21 secured creditor is made, or the election is made, but not within
 45-22 the prescribed period, or is made within the prescribed period but
 45-23 the creditor has a lien against real property and fails to record
 45-24 notice of the claim in the deed records as required within the
 45-25 prescribed period, the claim shall be a preferred debt and lien
 45-26 against the specific property securing the indebtedness and shall
 45-27 be paid according to the terms of the contract that secured the
 45-28 lien, and the claim may not be asserted against other assets of the
 45-29 estate. The independent executor may pay the claim before maturity
 45-30 if it is determined to be in the best interest of the estate to do
 45-31 so.

45-32 Sec. 403.053. MATURED SECURED CLAIMS. (a) A claim
 45-33 approved as a matured secured claim under Section 403.052 remains
 45-34 secured by any lien or security interest against the specific
 45-35 property securing payment of the claim but subordinated to the
 45-36 payment from the property of claims having a higher classification
 45-37 under Section 355.102. However, the secured creditor:

45-38 (1) is not entitled to exercise any remedies in a
 45-39 manner that prevents the payment of the higher priority claims and
 45-40 allowances; and

45-41 (2) during the administration of the estate, is not
 45-42 entitled to exercise any contractual collection rights, including
 45-43 the power to foreclose, without either the prior written approval
 45-44 of the independent executor or court approval.

45-45 (b) Subsection (a) may not be construed to suspend or
 45-46 otherwise prevent a creditor with a matured secured claim from
 45-47 seeking judicial relief of any kind or from executing any judgment
 45-48 against an independent executor. Except with respect to real
 45-49 property, any third party acting in good faith may obtain good title
 45-50 with respect to an estate asset acquired through a secured
 45-51 creditor's extrajudicial collection rights, without regard to
 45-52 whether the creditor had the right to collect the asset or whether
 45-53 the creditor acted improperly in exercising those rights during an
 45-54 estate administration due to having elected matured secured status.

45-55 (c) If a claim approved or established by suit as a matured
 45-56 secured claim is secured by property passing to one or more devisees
 45-57 in accordance with Subchapter G, Chapter 255, the independent
 45-58 executor shall collect from the devisees the amount of the debt and
 45-59 pay that amount to the claimant or shall sell the property and pay
 45-60 out of the sale proceeds the claim and associated expenses of sale
 45-61 consistent with the provisions of Sections 355.153(b), (c), (d),
 45-62 and (e) applicable to court supervised administrations.

45-63 Sec. 403.054. PREFERRED DEBT AND LIEN CLAIMS. During an
 45-64 independent administration, a secured creditor whose claim is a
 45-65 preferred debt and lien against property securing the indebtedness
 45-66 under Section 403.052 is free to exercise any judicial or
 45-67 extrajudicial collection rights, including the right to
 45-68 foreclosure and execution; provided, however, that the creditor
 45-69 does not have the right to conduct a nonjudicial foreclosure sale

46-1 within six months after letters are granted.

46-2 Sec. 403.055. CERTAIN UNSECURED CLAIMS; BARRING OF CLAIMS.
 46-3 An unsecured creditor who has a claim for money against an estate
 46-4 and who receives a notice under Section 308.054 shall give to the
 46-5 independent executor notice of the nature and amount of the claim
 46-6 not later than the 120th day after the date the notice is received
 46-7 or the claim is barred.

46-8 Sec. 403.056. NOTICES REQUIRED BY CREDITORS. (a) Notice
 46-9 to the independent executor required by Sections 403.052 and
 46-10 403.055 must be contained in:

46-11 (1) a written instrument that is hand-delivered with
 46-12 proof of receipt, or mailed by certified mail, return receipt
 46-13 requested with proof of receipt, to the independent executor or the
 46-14 executor's attorney;

46-15 (2) a pleading filed in a lawsuit with respect to the
 46-16 claim; or

46-17 (3) a written instrument or pleading filed in the
 46-18 court in which the administration of the estate is pending.

46-19 (b) This section does not exempt a creditor who elects
 46-20 matured secured status from the filing requirements of Section
 46-21 403.052, to the extent those requirements are applicable.

46-22 Sec. 403.057. STATUTE OF LIMITATIONS. Except as otherwise
 46-23 provided by Section 16.062, Civil Practice and Remedies Code, the
 46-24 running of the statute of limitations shall be tolled only by a
 46-25 written approval of a claim signed by an independent executor, a
 46-26 pleading filed in a suit pending at the time of the decedent's
 46-27 death, or a suit brought by the creditor against the independent
 46-28 executor. In particular, the presentation of a statement or claim,
 46-29 or a notice with respect to a claim, to an independent executor does
 46-30 not toll the running of the statute of limitations with respect to
 46-31 that claim.

46-32 Sec. 403.058. OTHER CLAIM PROCEDURES GENERALLY DO NOT
 46-33 APPLY. Except as otherwise provided by this subchapter, the
 46-34 procedural provisions of this title governing creditor claims in
 46-35 supervised administrations do not apply to independent
 46-36 administrations. By way of example, but not as a limitation:

46-37 (1) Sections 355.064 and 355.066 do not apply to
 46-38 independent administrations, and consequently a creditor's claim
 46-39 may not be barred solely because the creditor failed to file a suit
 46-40 not later than the 90th day after the date an independent executor
 46-41 rejected the claim or with respect to a claim for which the
 46-42 independent executor takes no action; and

46-43 (2) Sections 355.156, 355.157, 355.158, 355.159, and
 46-44 355.160 do not apply to independent administrations.

46-45 Sec. 403.0585. LIABILITY OF INDEPENDENT EXECUTOR FOR
 46-46 PAYMENT OF A CLAIM. An independent executor, in the administration
 46-47 of an estate, may pay at any time and without personal liability a
 46-48 claim for money against the estate to the extent approved and
 46-49 classified by the independent executor if:

46-50 (1) the claim is not barred by limitations; and

46-51 (2) at the time of payment, the independent executor
 46-52 reasonably believes the estate will have sufficient assets to pay
 46-53 all claims against the estate.

46-54 Sec. 403.059. ENFORCEMENT OF CLAIMS BY SUIT. Any person
 46-55 having a debt or claim against the estate may enforce the payment of
 46-56 the same by suit against the independent executor; and, when
 46-57 judgment is recovered against the independent executor, the
 46-58 execution shall run against the estate of the decedent in the
 46-59 possession of the independent executor that is subject to the debt.
 46-60 The independent executor shall not be required to plead to any suit
 46-61 brought against the executor for money until after six months after
 46-62 the date that an independent administration was created and the
 46-63 order appointing the executor was entered by the probate court.

46-64 Sec. 403.060. REQUIRING HEIRS TO GIVE BOND. When an
 46-65 independent administration is created and the order appointing an
 46-66 independent executor is entered by the probate court, any person
 46-67 having a debt against the estate may, by written complaint filed in
 46-68 the probate court in which the order was entered, cause all
 46-69 distributees of the estate, heirs at law, and other persons

47-1 entitled to any portion of the estate under the will, if any, to be
 47-2 cited by personal service to appear before the court and execute a
 47-3 bond for an amount equal to the amount of the creditor's claim or
 47-4 the full value of the estate, as shown by the inventory and list of
 47-5 claims, whichever is smaller. The bond must be payable to the
 47-6 judge, and the judge's successors, and be approved by the judge, and
 47-7 conditioned that all obligors shall pay all debts that shall be
 47-8 established against the estate in the manner provided by law. On
 47-9 the return of the citation served, unless a person so entitled to
 47-10 any portion of the estate, or some of them, or some other person for
 47-11 them, shall execute the bond to the satisfaction of the probate
 47-12 court, the estate shall be administered and settled under the
 47-13 direction of the probate court as other estates are required to be
 47-14 settled. If the bond is executed and approved, the independent
 47-15 administration shall proceed. Creditors of the estate may sue on
 47-16 the bond, and shall be entitled to judgment on the bond for the
 47-17 amount of their debt, or they may have their action against those in
 47-18 possession of the estate.

47-19 CHAPTER 404. ACCOUNTINGS, SUCCESSORS, AND OTHER REMEDIES

47-20 Sec. 404.001. ACCOUNTING. (a) At any time after the
 47-21 expiration of 15 months after the date that an independent
 47-22 administration was created and the order appointing an independent
 47-23 executor was entered by the probate court, any person interested in
 47-24 the estate may demand an accounting from the independent executor.
 47-25 The independent executor shall furnish to the person or persons
 47-26 making the demand an exhibit in writing, sworn and subscribed by the
 47-27 independent executor, setting forth in detail:

47-28 (1) the property belonging to the estate that has come
 47-29 into the executor's possession as executor;

47-30 (2) the disposition that has been made of the property
 47-31 described by Subdivision (1);

47-32 (3) the debts that have been paid;

47-33 (4) the debts and expenses, if any, still owing by the
 47-34 estate;

47-35 (5) the property of the estate, if any, still
 47-36 remaining in the executor's possession;

47-37 (6) other facts as may be necessary to a full and
 47-38 definite understanding of the exact condition of the estate; and

47-39 (7) the facts, if any, that show why the
 47-40 administration should not be closed and the estate distributed.

47-41 (a-1) Any other interested person shall, on demand, be
 47-42 entitled to a copy of any exhibit or accounting that has been made
 47-43 by an independent executor in compliance with this section.

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

47-50 (c) After an initial accounting has been given by an
 47-51 independent executor, any person interested in an estate may demand
 47-52 subsequent periodic accountings at intervals of not less than 12
 47-53 months, and such subsequent demands may be enforced in the same
 47-54 manner as an initial demand.

47-55 (d) The right to an accounting accorded by this section is
 47-56 cumulative of any other remedies which persons interested in an
 47-57 estate may have against the independent executor of the estate.

47-58 Sec. 404.002. REQUIRING INDEPENDENT EXECUTOR TO GIVE BOND.
 47-59 When it has been provided by will, regularly probated, that an
 47-60 independent executor appointed by the will shall not be required to
 47-61 give bond for the management of the estate devised by the will, or
 47-62 the independent executor is not required to give bond because bond
 47-63 has been waived by court order as authorized under Section 401.005,
 47-64 then the independent executor may be required to give bond, on
 47-65 proper proceedings had for that purpose as in the case of personal
 47-66 representatives in a supervised administration, if it be made to
 47-67 appear at any time that the independent executor is mismanaging the
 47-68 property, or has betrayed or is about to betray the independent
 47-69 executor's trust, or has in some other way become disqualified.

48-1 Sec. 404.003. REMOVAL OF INDEPENDENT EXECUTOR. (a) The
 48-2 probate court, on its own motion or on motion of any interested
 48-3 person, after the independent executor has been cited by personal
 48-4 service to answer at a time and place fixed in the notice, may
 48-5 remove an independent executor when:

48-6 (1) the independent executor fails to return within 90
 48-7 days after qualification, unless such time is extended by order of
 48-8 the court, either an inventory of the property of the estate and
 48-9 list of claims that have come to the independent executor's
 48-10 knowledge or an affidavit in lieu of the inventory, appraisement,
 48-11 and list of claims;

48-12 (2) sufficient grounds appear to support belief that
 48-13 the independent executor has misapplied or embezzled, or that the
 48-14 independent executor is about to misapply or embezzle, all or any
 48-15 part of the property committed to the independent executor's care;

48-16 (3) the independent executor fails to make an
 48-17 accounting which is required by law to be made;

48-18 (4) the independent executor fails to timely file the
 48-19 affidavit or certificate required by Section 308.004;

48-20 (5) the independent executor is proved to have been
 48-21 guilty of gross misconduct or gross mismanagement in the
 48-22 performance of the independent executor's duties; or

48-23 (6) the independent executor becomes an incapacitated
 48-24 person, or is sentenced to the penitentiary, or from any other cause
 48-25 becomes legally incapacitated from properly performing the
 48-26 independent executor's fiduciary duties.

48-27 (b) The order of removal shall state the cause of removal
 48-28 and shall direct by order the disposition of the assets remaining in
 48-29 the name or under the control of the removed executor. The order of
 48-30 removal shall require that letters issued to the removed executor
 48-31 shall be surrendered and that all letters shall be canceled of
 48-32 record. If an independent executor is removed by the court under
 48-33 this section, the court may, on application, appoint a successor
 48-34 independent executor as provided by Section 404.005.

48-35 (c) An independent executor who defends an action for the
 48-36 independent executor's removal in good faith, whether successful or
 48-37 not, shall be allowed out of the estate the independent executor's
 48-38 necessary expenses and disbursements, including reasonable
 48-39 attorney's fees, in the removal proceedings.

48-40 (d) Costs and expenses incurred by the party seeking removal
 48-41 that are incident to removal of an independent executor appointed
 48-42 without bond, including reasonable attorney's fees and expenses,
 48-43 may be paid out of the estate.

48-44 Sec. 404.004. POWERS OF AN ADMINISTRATOR WHO SUCCEEDS AN
 48-45 INDEPENDENT EXECUTOR. (a) Whenever a person has died, or shall
 48-46 die, testate, owning property in this state, and the person's will
 48-47 has been or shall be admitted to probate by the court, and the
 48-48 probated will names an independent executor or executors, or
 48-49 trustees acting in the capacity of independent executors, to
 48-50 execute the terms and provisions of that will, and the will grants
 48-51 to the independent executor, or executors, or trustees acting in
 48-52 the capacity of independent executors, the power to raise or borrow
 48-53 money and to mortgage, and the independent executor, or executors,
 48-54 or trustees, have died or shall die, resign, fail to qualify, or be
 48-55 removed from office, leaving unexecuted parts or portions of the
 48-56 will of the testator, and an administrator with the will annexed is
 48-57 appointed by the probate court, and an administrator's bond is
 48-58 filed and approved by the court, then in all such cases, the court
 48-59 may, in addition to the powers conferred on the administrator under
 48-60 other provisions of the laws of this state, authorize, direct, and
 48-61 empower the administrator to do and perform the acts and deeds,
 48-62 clothed with the rights, powers, authorities, and privileges, and
 48-63 subject to the limitations, set forth in the subsequent provisions
 48-64 of this section.

48-65 (b) The court, on application, citation, and hearing, may,
 48-66 by its order, authorize, direct, and empower the administrator to
 48-67 raise or borrow such sums of money and incur such obligations and
 48-68 debts as the court shall, in its said order, direct, and to renew
 48-69 and extend same from time to time, as the court, on application and

49-1 order, shall provide; and, if authorized by the court's order, to
 49-2 secure such loans, obligations, and debts, by pledge or mortgage on
 49-3 property or assets of the estate, real, personal, or mixed, on such
 49-4 terms and conditions, and for such duration of time, as the court
 49-5 shall consider to be in the best interests of the estate, and by its
 49-6 order shall prescribe; and all such loans, obligations, debts,
 49-7 pledges, and mortgages shall be valid and enforceable against the
 49-8 estate and against the administrator in the administrator's
 49-9 official capacity.

49-10 (c) The court may order and authorize the administrator to
 49-11 have and exercise the powers and privileges set forth in Subsection
 49-12 (a) or (b) only to the extent that same are granted to or possessed
 49-13 by the independent executor, or executors, or trustees acting in
 49-14 the capacity of independent executors, under the terms of the
 49-15 probated will of the decedent, and then only in such cases as it
 49-16 appears, at the hearing of the application, that at the time of the
 49-17 appointment of the administrator, there are outstanding and unpaid
 49-18 obligations and debts of the estate, or of the independent
 49-19 executor, or executors, or trustees, chargeable against the estate,
 49-20 or unpaid expenses of administration, or when the court appointing
 49-21 the administrator orders the business of the estate to be carried on
 49-22 and it becomes necessary, from time to time, under orders of the
 49-23 court, for the administrator to borrow money and incur obligations
 49-24 and indebtedness in order to protect and preserve the estate.

49-25 (d) The court, in addition, may, on application, citation,
 49-26 and hearing, order, authorize, and empower the administrator to
 49-27 assume, exercise, and discharge, under the orders and directions of
 49-28 the court, made from time to time, all or such part of the rights,
 49-29 powers, and authorities vested in and delegated to, or possessed
 49-30 by, the independent executor, or executors, or trustees acting in
 49-31 the capacity of independent executors, under the terms of the will
 49-32 of the decedent, as the court finds to be in the best interests of
 49-33 the estate and shall, from time to time, order and direct.

49-34 (e) The granting to the administrator by the court of some,
 49-35 or all, of the powers and authorities set forth in this section
 49-36 shall be on application filed by the administrator with the county
 49-37 clerk, setting forth such facts as, in the judgment of the
 49-38 administrator, require the granting of the power or authority
 49-39 requested.

49-40 (f) On the filing of an application under Subsection (e),
 49-41 the clerk shall issue citation to all persons interested in the
 49-42 estate, stating the nature of the application, and requiring those
 49-43 persons to appear on the return day named in such citation and show
 49-44 cause why the application should not be granted, should they choose
 49-45 to do so. The citation shall be served by posting.

49-46 (g) The court shall hear the application and evidence on the
 49-47 application, on or after the return day named in the citation, and,
 49-48 if satisfied a necessity exists and that it would be in the best
 49-49 interests of the estate to grant the application in whole or in
 49-50 part, the court shall so order; otherwise, the court shall refuse
 49-51 the application.

49-52 Sec. 404.005. COURT-APPOINTED SUCCESSOR INDEPENDENT
 49-53 EXECUTOR. (a) If the will of a person who dies testate names an
 49-54 independent executor who, having qualified, fails for any reason to
 49-55 continue to serve, or is removed for cause by the court, and the
 49-56 will does not name a successor independent executor or if each
 49-57 successor executor named in the will fails for any reason to qualify
 49-58 as executor or indicates by affidavit filed with the application
 49-59 for an order continuing independent administration the successor
 49-60 executor's inability or unwillingness to serve as successor
 49-61 independent executor, all of the distributees of the decedent as of
 49-62 the filing of the application for an order continuing independent
 49-63 administration may apply to the probate court for the appointment
 49-64 of a qualified person, firm, or corporation to serve as successor
 49-65 independent executor. If the probate court finds that continued
 49-66 administration of the estate is necessary, the court shall enter an
 49-67 order continuing independent administration and appointing the
 49-68 person, firm, or corporation designated in the application as
 49-69 successor independent executor, unless the probate court finds that

50-1 it would not be in the best interest of the estate to do so. The
50-2 successor independent executor shall serve with all of the powers
50-3 and privileges granted to the successor's predecessor independent
50-4 executor.

50-5 (b) If a distributee described in this section is an
50-6 incapacitated person, the guardian of the person of the distributee
50-7 may sign the application on behalf of the distributee. If the
50-8 probate court finds that either the continuing of independent
50-9 administration or the appointment of the person, firm, or
50-10 corporation designated in the application as successor independent
50-11 executor would not be in the best interest of the incapacitated
50-12 person, then, notwithstanding Subsection (a), the court may not
50-13 enter an order continuing independent administration of the estate.
50-14 If the distributee is an incapacitated person and has no guardian of
50-15 the person, the court may appoint a guardian ad litem to make
50-16 application on behalf of the incapacitated person if the probate
50-17 court considers such an appointment necessary to protect the
50-18 interest of that distributee.

50-19 (c) If a trust is created in the decedent's will, the person
50-20 or class of persons first eligible to receive the income from the
50-21 trust, determined as if the trust were to be in existence on the
50-22 date of the filing of the application for an order continuing
50-23 independent administration, shall, for the purposes of this
50-24 section, be considered to be the distributee or distributees on
50-25 behalf of the trust, and any other trust or trusts coming into
50-26 existence on the termination of the trust, and are authorized to
50-27 apply for an order continuing independent administration on behalf
50-28 of the trust without the consent or agreement of the trustee or any
50-29 other beneficiary of the trust, or the trustee or any beneficiary of
50-30 any other trust which may come into existence on the termination of
50-31 the trust.

50-32 (d) If a life estate is created either in the decedent's
50-33 will or by law, and if a life tenant is living at the time of the
50-34 filing of the application for an order continuing independent
50-35 administration, then the life tenant or life tenants, determined as
50-36 if the life estate were to commence on the date of the filing of the
50-37 application for an order continuing independent administration,
50-38 shall, for the purposes of this section, be considered to be the
50-39 distributee or distributees on behalf of the entire estate created,
50-40 and are authorized to apply for an order continuing independent
50-41 administration on behalf of the estate without the consent or
50-42 approval of any remainderman.

50-43 (e) If a decedent's will contains a provision that a
50-44 distributee must survive the decedent by a prescribed period of
50-45 time in order to take under the decedent's will, for the purposes of
50-46 determining who shall be the distributee under this section, it
50-47 shall be presumed that the distributees living at the time of the
50-48 filing of the application for an order continuing independent
50-49 administration of the decedent's estate survived the decedent for
50-50 the prescribed period.

50-51 (f) In the case of all decedents, for the purposes of
50-52 determining who shall be the distributees under this section, it
50-53 shall be presumed that no distributee living at the time the
50-54 application for an order continuing independent administration of
50-55 the decedent's estate is filed shall subsequently disclaim any
50-56 portion of the distributee's interest in the decedent's estate.

50-57 (g) If a distributee of a decedent's estate should die, and
50-58 if by virtue of the distributee's death the distributee's share of
50-59 the decedent's estate shall become payable to the distributee's
50-60 estate, then the deceased distributee's personal representative
50-61 may sign the application for an order continuing independent
50-62 administration of the decedent's estate under this section.

50-63 (h) If a successor independent executor is appointed under
50-64 this section, then, unless the probate court shall waive bond on
50-65 application for waiver, the successor independent executor shall be
50-66 required to enter into bond payable to and to be approved by the
50-67 judge and the judge's successors in a sum that is found by the judge
50-68 to be adequate under all circumstances, or a bond with one surety in
50-69 an amount that is found by the judge to be adequate under all

51-1 circumstances, if the surety is an authorized corporate surety.

51-2 (i) Absent proof of fraud or collusion on the part of a
 51-3 judge, the judge may not be held civilly liable for the commission
 51-4 of misdeeds or the omission of any required act of any person, firm,
 51-5 or corporation designated as a successor independent executor under
 51-6 this section. Section 351.354 does not apply to an appointment of a
 51-7 successor independent executor under this section.

51-8 CHAPTER 405. CLOSING AND DISTRIBUTIONS

51-9 Sec. 405.001. ACCOUNTING AND DISTRIBUTION. (a) In
 51-10 addition to or in lieu of the right to an accounting provided by
 51-11 Section 404.001, at any time after the expiration of two years after
 51-12 the date the court clerk first issues letters testamentary or of
 51-13 administration to any personal representative of an estate, a
 51-14 person interested in the estate then subject to independent
 51-15 administration may petition the court for an accounting and
 51-16 distribution. The court may order an accounting to be made with the
 51-17 court by the independent executor at such time as the court
 51-18 considers proper. The accounting shall include the information
 51-19 that the court considers necessary to determine whether any part of
 51-20 the estate should be distributed.

51-21 (b) On receipt of the accounting and, after notice to the
 51-22 independent executor and a hearing, unless the court finds a
 51-23 continued necessity for administration of the estate, the court
 51-24 shall order its distribution by the independent executor to the
 51-25 distributees entitled to the property. If the court finds there is
 51-26 a continued necessity for administration of the estate, the court
 51-27 shall order the distribution of any portion of the estate that the
 51-28 court finds should not be subject to further administration by the
 51-29 independent executor. If any portion of the estate that is ordered
 51-30 to be distributed is incapable of distribution without prior
 51-31 partition or sale, the court shall order partition and
 51-32 distribution, or sale, in the manner provided for the partition and
 51-33 distribution of property incapable of division in supervised
 51-34 estates.

51-35 (c) If all the property in the estate is ordered distributed
 51-36 by the court and the estate is fully administered, the court may
 51-37 also order the independent executor to file a final account with the
 51-38 court and may enter an order closing the administration and
 51-39 terminating the power of the independent executor to act as
 51-40 executor.

51-41 Sec. 405.002. RECEIPTS AND RELEASES FOR DISTRIBUTIONS BY
 51-42 INDEPENDENT EXECUTOR. (a) An independent executor may not be
 51-43 required to deliver tangible or intangible personal property to a
 51-44 distributee unless the independent executor receives, at or before
 51-45 the time of delivery of the property, a signed receipt or other
 51-46 proof of delivery of the property to the distributee.

51-47 (b) An independent executor may not require a waiver or
 51-48 release from the distributee as a condition of delivery of property
 51-49 to a distributee.

51-50 Sec. 405.003. JUDICIAL DISCHARGE OF INDEPENDENT EXECUTOR.
 51-51 (a) After an estate has been administered and if there is no
 51-52 further need for an independent administration of the estate, the
 51-53 independent executor of the estate may file an action for
 51-54 declaratory judgment under Chapter 37, Civil Practice and Remedies
 51-55 Code, seeking to discharge the independent executor from any
 51-56 liability involving matters relating to the past administration of
 51-57 the estate that have been fully and fairly disclosed.

51-58 (b) On the filing of an action under this section, each
 51-59 beneficiary of the estate shall be personally served with citation,
 51-60 except for a beneficiary who has waived the issuance and service of
 51-61 citation.

51-62 (c) In a proceeding under this section, the court may
 51-63 require the independent executor to file a final account that
 51-64 includes any information the court considers necessary to
 51-65 adjudicate the independent executor's request for a discharge of
 51-66 liability. The court may audit, settle, or approve a final account
 51-67 filed under this subsection.

51-68 (d) On or before filing an action under this section, the
 51-69 independent executor must distribute to the beneficiaries of the

52-1 estate any of the remaining assets or property of the estate that
 52-2 remains in the independent executor's possession after all of the
 52-3 estate's debts have been paid, except for a reasonable reserve of
 52-4 assets that the independent executor may retain in a fiduciary
 52-5 capacity pending court approval of the final account. The court may
 52-6 review the amount of assets on reserve and may order the independent
 52-7 executor to make further distributions under this section.

52-8 (e) Except as ordered by the court, the independent executor
 52-9 is entitled to pay from the estate legal fees, expenses, or other
 52-10 costs incurred in relation to a proceeding for judicial discharge
 52-11 filed under this section. The independent executor shall be
 52-12 personally liable to refund any amount of such fees, expenses, or
 52-13 other costs not approved by the court as a proper charge against the
 52-14 estate.

52-15 Sec. 405.004. CLOSING INDEPENDENT ADMINISTRATION BY
 52-16 CLOSING REPORT OR NOTICE OF CLOSING ESTATE. When all of the debts
 52-17 known to exist against the estate have been paid, or when they have
 52-18 been paid so far as the assets in the independent executor's
 52-19 possession will permit, when there is no pending litigation, and
 52-20 when the independent executor has distributed to the distributees
 52-21 entitled to the estate all assets of the estate, if any, remaining
 52-22 after payment of debts, the independent executor may file with the
 52-23 court a closing report or a notice of closing of the estate.

52-24 Sec. 405.005. CLOSING REPORT. An independent executor may
 52-25 file a closing report verified by affidavit that:

52-26 (1) shows:

52-27 (A) the property of the estate that came into the
 52-28 independent executor's possession;

52-29 (B) the debts that have been paid;

52-30 (C) the debts, if any, still owing by the estate;

52-31 (D) the property of the estate, if any, remaining
 52-32 on hand after payment of debts; and

52-33 (E) the names and addresses of the distributees
 52-34 to whom the property of the estate, if any, remaining on hand after
 52-35 payment of debts has been distributed; and

52-36 (2) includes signed receipts or other proof of
 52-37 delivery of property to the distributees named in the closing
 52-38 report if the closing report reflects that there was property
 52-39 remaining on hand after payment of debts.

52-40 Sec. 405.006. NOTICE OF CLOSING ESTATE. (a) Instead of
 52-41 filing a closing report under Section 405.005, an independent
 52-42 executor may file a notice of closing estate verified by affidavit
 52-43 that states:

52-44 (1) that all debts known to exist against the estate
 52-45 have been paid or have been paid to the extent permitted by the
 52-46 assets in the independent executor's possession;

52-47 (2) that all remaining assets of the estate, if any,
 52-48 have been distributed; and

52-49 (3) the names and addresses of the distributees to
 52-50 whom the property of the estate, if any, remaining on hand after
 52-51 payment of debts has been distributed.

52-52 (b) Before filing the notice, the independent executor
 52-53 shall provide to each distributee of the estate a copy of the notice
 52-54 of closing estate. The notice of closing estate filed by the
 52-55 independent executor must include signed receipts or other proof
 52-56 that all distributees have received a copy of the notice of closing
 52-57 estate.

52-58 Sec. 405.007. EFFECT OF FILING CLOSING REPORT OR NOTICE OF
 52-59 CLOSING ESTATE. (a) The independent administration of an estate
 52-60 is considered closed 30 days after the date of the filing of a
 52-61 closing report or notice of closing estate unless an interested
 52-62 person files an objection with the court within that time. If an
 52-63 interested person files an objection within the 30-day period, the
 52-64 independent administration of the estate is closed when the
 52-65 objection has been disposed of or the court signs an order closing
 52-66 the estate.

52-67 (b) The closing of an independent administration by filing
 52-68 of a closing report or notice of closing estate terminates the power
 52-69 and authority of the independent executor, but does not relieve the

53-1 independent executor from liability for any mismanagement of the
 53-2 estate or from liability for any false statements contained in the
 53-3 report or notice.

53-4 (c) When a closing report or notice of closing estate has
 53-5 been filed, persons dealing with properties of the estate, or with
 53-6 claims against the estate, shall deal directly with the
 53-7 distributees of the estate; and the acts of the distributees with
 53-8 respect to the properties or claims shall in all ways be valid and
 53-9 binding as regards the persons with whom they deal, notwithstanding
 53-10 any false statements made by the independent executor in the report
 53-11 or notice.

53-12 (d) If the independent executor is required to give bond,
 53-13 the independent executor's filing of the closing report and proof
 53-14 of delivery, if required, automatically releases the sureties on
 53-15 the bond from all liability for the future acts of the principal.
 53-16 The filing of a notice of closing estate does not release the
 53-17 sureties on the bond of an independent executor.

53-18 (e) An independent executor's closing report or notice of
 53-19 closing estate shall constitute sufficient legal authority to all
 53-20 persons owing any money, having custody of any property, or acting
 53-21 as registrar or transfer agent or trustee of any evidence of
 53-22 interest, indebtedness, property, or right that belongs to the
 53-23 estate, for payment or transfer without additional administration
 53-24 to the distributees described in the will as entitled to receive the
 53-25 particular asset or who as heirs at law are entitled to receive the
 53-26 asset. The distributees described in the will as entitled to
 53-27 receive the particular asset or the heirs at law entitled to receive
 53-28 the asset may enforce their right to the payment or transfer by
 53-29 suit.

53-30 Sec. 405.008. PARTITION AND DISTRIBUTION OR SALE OF
 53-31 PROPERTY INCAPABLE OF DIVISION. If the will does not distribute the
 53-32 entire estate of the testator or provide a means for partition of
 53-33 the estate, or if no will was probated, the independent executor
 53-34 may, but may not be required to, petition the probate court for
 53-35 either a partition and distribution of the estate or an order of
 53-36 sale of any portion of the estate alleged by the independent
 53-37 executor and found by the court to be incapable of a fair and equal
 53-38 partition and distribution, or both. The estate or portion of the
 53-39 estate shall either be partitioned and distributed or sold, or
 53-40 both, in the manner provided for the partition and distribution of
 53-41 property and the sale of property incapable of division in
 53-42 supervised estates.

53-43 Sec. 405.009. CLOSING INDEPENDENT ADMINISTRATION ON
 53-44 APPLICATION BY DISTRIBUTEES. (a) At any time after an estate has
 53-45 been fully administered and there is no further need for an
 53-46 independent administration of the estate, any distributee may file
 53-47 an application to close the administration; and, after citation on
 53-48 the independent executor, and on hearing, the court may enter an
 53-49 order:

53-50 (1) requiring the independent executor to file a
 53-51 closing report meeting the requirements of Section 405.005;

53-52 (2) closing the administration;

53-53 (3) terminating the power of the independent executor
 53-54 to act as independent executor; and

53-55 (4) releasing the sureties on any bond the independent
 53-56 executor was required to give from all liability for the future acts
 53-57 of the principal.

53-58 (b) The order of the court closing the independent
 53-59 administration shall constitute sufficient legal authority to all
 53-60 persons owing any money, having custody of any property, or acting
 53-61 as registrar or transfer agent or trustee of any evidence of
 53-62 interest, indebtedness, property, or right that belongs to the
 53-63 estate, for payment or transfer without additional administration
 53-64 to the distributees described in the will as entitled to receive the
 53-65 particular asset or who as heirs at law are entitled to receive the
 53-66 asset. The distributees described in the will as entitled to
 53-67 receive the particular asset or the heirs at law entitled to receive
 53-68 the asset may enforce their right to the payment or transfer by
 53-69 suit.

54-1 Sec. 405.010. ISSUANCE OF LETTERS. At any time before the
54-2 authority of an independent executor has been terminated in the
54-3 manner set forth in this subtitle, the clerk shall issue such number
54-4 of letters testamentary as the independent executor shall request.

54-5 Sec. 405.011. RIGHTS AND REMEDIES CUMULATIVE. The rights
54-6 and remedies conferred by this chapter are cumulative of other
54-7 rights and remedies to which a person interested in the estate may
54-8 be entitled under law.

54-9 Sec. 405.012. CLOSING PROCEDURES NOT REQUIRED. An
54-10 independent executor is not required to close the independent
54-11 administration of an estate under Section 405.003 or Sections
54-12 405.004 through 405.007.

54-13 SECTION 2.53. (a) Sections 202.003 and 352.003, Estates
54-14 Code, as effective January 1, 2014, are repealed.

54-15 (b) The following sections of the Texas Probate Code are
54-16 repealed:

54-17 (1) Sections 4D, 4H, 48, 49, 59, 64, 67, 84, 250, 260,
54-18 436, 439, 452, 471, 472, and 473, as amended by Article 1 of this
54-19 Act;

54-20 (2) Sections 6A, 6B, 6C, 6D, 8A, 8B, 145A, 145B, and
54-21 145C, as added by Article 1 of this Act; and

54-22 (3) Sections 222 and 241.

54-23 (c) Notwithstanding the transfer of Sections 6 and 8, Texas
54-24 Probate Code, to the Estates Code and redesignation as Sections 6
54-25 and 8 of that code effective January 1, 2014, by Section 2, Chapter
54-26 680 (H.B. 2502), Acts of the 81st Legislature, Regular Session,
54-27 2009, Sections 6 and 8, Texas Probate Code, as amended by Article 1
54-28 of this Act, are repealed.

54-29 (d) Notwithstanding the transfer of Sections 145 through
54-30 154A, Texas Probate Code, to the Estates Code and redesignation as
54-31 Sections 145 through 154A of that code effective January 1, 2014, by
54-32 Section 3, Chapter 680 (H.B. 2502), Acts of the 81st Legislature,
54-33 Regular Session, 2009, the following sections are repealed:

54-34 (1) Sections 145, 146, 149B, 149C, and 151, Texas
54-35 Probate Code, as amended by Article 1 of this Act; and

54-36 (2) Sections 147, 148, 149, 149A, 149D, 149E, 149F,
54-37 149G, 150, 152, 153, 154, and 154A, Texas Probate Code.

54-38 SECTION 2.54. This article takes effect January 1, 2014.

54-39 ARTICLE 3. CONFLICTS; EFFECTIVE DATE

54-40 SECTION 3.01. To the extent of any conflict, this Act
54-41 prevails over another Act of the 82nd Legislature, Regular Session,
54-42 2011, relating to nonsubstantive additions to and corrections in
54-43 enacted codes.

54-44 SECTION 3.02. Except as otherwise provided by this Act,
54-45 this Act takes effect September 1, 2011.

54-46 * * * * *