

BILL ANALYSIS

H.B. 789
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, if an individual dies without leaving a homestead to the surviving spouse or minor children, the survivors may pursue a claim against the decedent's estate called an allowance in lieu of homestead or an allowance in lieu of other exempt property. At present, the maximum amount that can be claimed in lieu of a homestead is only \$15,000. Similarly, the maximum amount of the allowance in lieu of other exempt property is only \$5,000. Interested parties assert that, because these amounts have not been increased in nearly 20 years, at present value, the allowances are largely insignificant. In addition, because of the economic downturn, these parties assert that more consumers are opting to rent rather than purchase their homes and that this allowance will become relevant to a larger population.

H.B. 789 seeks to provide meaningful allowances in lieu of a homestead and in lieu of other exempt property by increasing the amounts to a level of economic significance that essentially equates to the value of the allowances provided in the original law.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 789 amends the Texas Probate Code to raise from \$15,000 to \$45,000 the cap on the allowance made by a court administering a decedent's estate to be paid to the decedent's surviving spouse and children in lieu of a homestead exempted from execution or forced sale and to raise from \$5,000 to \$30,000 the cap on the allowance made in lieu of exempted property other than a homestead. The bill repeals this provision effective January 1, 2014.

H.B. 789 amends the Estates Code, as effective January 1, 2014, to incorporate in that code the bill's provisions amending the Texas Probate Code. The bill makes this provision effective January 1, 2014.

H.B. 789 repeals Section 273, Texas Probate Code, as amended by the bill's provisions, effective January 1, 2014.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2013.