

By: Thompson of Harris

H.B. No. 2916

A BILL TO BE ENTITLED

AN ACT

relating to decedents' estates.

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

SECTION 1. Subchapter A, Chapter 202, Estates Code, as effective January 1, 2014, is amended by adding Section 202.0025 to read as follows:

Sec. 202.0025. ACTION BROUGHT AFTER DECEDENT'S DEATH. Notwithstanding Section 16.051, Civil Practice and Remedies Code, a proceeding to declare heirship of a decedent may be brought at any time after the decedent's death.

SECTION 2. Sections 204.151 and 204.152, Estates Code, as effective January 1, 2014, are amended to read as follows:

Sec. 204.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies in a proceeding to declare heirship of a decedent only with respect to an individual who[+]

~~[(1) petitions the court for a determination of right of inheritance as authorized by Section 201.052(c), and~~

~~[(2)]~~ claims[+]

~~[(A)] to be a biological child of the decedent or claims[, but with respect to whom a parent-child relationship with the decedent was not established as provided by Section 160.201, Family Code, or~~

~~[(B)] to inherit through a biological child of the decedent[, if a parent-child relationship between the~~

1 ~~individual through whom the inheritance is claimed and the decedent~~
2 ~~was not established as provided by Section 160.201, Family Code].~~

3 Sec. 204.152. PRESUMPTION; ~~[REQUIRED FINDINGS IN ABSENCE~~
4 ~~OF] REBUTTAL [EVIDENCE].~~ The presumption under Section 160.505,
5 Family Code, that applies in establishing a parent-child
6 relationship also applies in determining heirship in the probate
7 court using the results of genetic testing ordered with respect to
8 an individual described by Section 204.151, and the presumption may
9 be rebutted in the same manner provided by Section 160.505, Family
10 Code. ~~[Unless the results of genetic testing of another individual~~
11 ~~who is an heir of the decedent who is the subject of a proceeding to~~
12 ~~declare heirship to which this subchapter applies are admitted as~~
13 ~~rebuttal evidence, the court shall find that the individual~~
14 ~~described by Section 204.151:~~

15 ~~[(1) is an heir of the decedent, if the results of~~
16 ~~genetic testing ordered under Subchapter B identify a tested~~
17 ~~individual who is an heir of the decedent as the ancestor of the~~
18 ~~individual described by Section 204.151, or~~

19 ~~[(2) is not an heir of the decedent, if the results of~~
20 ~~genetic testing ordered under Subchapter B exclude a tested~~
21 ~~individual who is an heir of the decedent as the ancestor of the~~
22 ~~individual described by Section 204.151.]~~

23 SECTION 3. Section 304.001(c), Estates Code, as effective
24 January 1, 2014, is amended to read as follows:

25 (c) If persons ~~[applicants for letters testamentary or of~~
26 ~~administration]~~ are equally entitled to letters testamentary or of
27 administration ~~[the letters]~~, the court:

1 (1) shall grant the letters to the person [~~applicant~~]
2 who, in the judgment of the court, is most likely to administer the
3 estate advantageously; or

4 (2) may grant the letters to two or more of those
5 persons [~~applicants~~].

6 SECTION 4. Subchapter B, Chapter 309, Estates Code, as
7 effective January 1, 2014, is amended by adding Section 309.057 to
8 read as follows:

9 Sec. 309.057. PENALTY FOR FAILURE TO TIMELY FILE INVENTORY,
10 APPRAISEMENT, AND LIST OF CLAIMS OR AFFIDAVIT IN LIEU OF. (a) This
11 section applies only to a personal representative, including an
12 independent executor or administrator, who does not file an
13 inventory, appraisalment, and list of claims or affidavit in lieu of
14 the inventory, appraisalment, and list of claims, as applicable,
15 within the period prescribed by Section 309.051 or any extension
16 granted by the court.

17 (b) Any person interested in the estate on written
18 complaint, or the court on the court's own motion, may have a
19 personal representative to whom this section applies cited to file
20 the inventory, appraisalment, and list of claims or affidavit in
21 lieu of the inventory, appraisalment, and list of claims, as
22 applicable, and show cause for the failure to timely file.

23 (c) If the personal representative does not file the
24 inventory, appraisalment, and list of claims or affidavit in lieu of
25 the inventory, appraisalment, and list of claims, as applicable,
26 after being cited or does not show good cause for the failure to
27 timely file, the court on hearing may fine the representative in an

1 amount not to exceed \$1,000.

2 (d) The personal representative and the representative's
3 sureties, if any, are liable for any fine imposed under this section
4 and for all damages and costs sustained by the representative's
5 failure. The fine, damages, and costs may be recovered in any court
6 of competent jurisdiction.

7 SECTION 5. Section 362.005, Estates Code, as effective
8 January 1, 2014, is amended to read as follows:

9 Sec. 362.005. CITATION AND NOTICE ON PRESENTATION OF
10 ACCOUNT. (a) On the presentation of an account for final settlement
11 by a temporary or permanent personal representative, the county
12 clerk shall issue citation to the persons and in the manner provided
13 by Subsection (b) [~~Subsections (c) and (d)~~].

14 (b) Citation issued under Subsection (a) must:

15 (1) contain:

16 (A) [~~(1)~~] (A) a statement that an account for final
17 settlement has been presented;

18 (B) [~~(2)~~] (B) the time and place the court will
19 consider the account; [~~and~~]

20 (C) [~~(3)~~] (C) a statement requiring the person cited
21 to appear and contest the account, if the person wishes to contest
22 the account; and

23 (D) (D) a copy of the account for final settlement;
24 and

25 (2) be given [~~-~~

26 [~~(c) The personal representative shall give notice~~] to each
27 heir or beneficiary of the decedent by certified mail, return

1 receipt requested, unless the court by written order directs
2 another method of service [~~type of notice~~] to be given[~~. The notice~~
3 ~~must include a copy of the account for final settlement~~].

4 (c) [~~(d)~~] The court by written order shall require
5 additional notice if the court considers the additional notice
6 necessary.

7 (d) [~~(e)~~] The court may allow the waiver of citation
8 [~~notice~~] of an account for final settlement in a proceeding
9 concerning a decedent's estate.

10 SECTION 6. Section 362.011, Estates Code, as effective
11 January 1, 2014, is amended to read as follows:

12 Sec. 362.011. PARTITION AND DISTRIBUTION OF ESTATE; DEPOSIT
13 IN COURT'S REGISTRY. (a) If, on final settlement of an estate, any
14 of the estate remains in the personal representative's possession,
15 the court shall order that a partition and distribution be made
16 among the persons entitled to receive that part of the estate.

17 (b) The court shall order the personal representative to
18 deposit in an account in the court's registry any remaining estate
19 property that is money and to which a person who is unknown or
20 missing is entitled. In addition, the court shall order the
21 representative to sell, on terms the court determines are best,
22 remaining estate property that is not money and to which a person
23 who is unknown or missing is entitled. The court shall order the
24 representative to deposit the sale proceeds in an account in the
25 court's registry. The court shall hold money deposited in an
26 account under this subsection until the court renders:

27 (1) an order requiring money in the account to be paid

1 to the previously unknown or missing person who is entitled to the
2 money; or

3 (2) another order regarding the disposition of the
4 money.

5 SECTION 7. Section 551.001(a), Estates Code, as effective
6 January 1, 2014, is amended to read as follows:

7 (a) The court, by written order, shall require the executor
8 or administrator of an estate to pay to the comptroller as provided
9 by this subchapter the share of that estate of a person entitled to
10 that share who does not demand the share, including any portion
11 deposited in an account in the court's registry under Section
12 362.011(b), from the executor or administrator within six months
13 after the date of, as applicable:

14 (1) a court order approving the report of the
15 commissioners of partition made under Section 360.154; or

16 (2) the settlement of the final account of the
17 executor or administrator.

18 SECTION 8. (a) Except as otherwise provided by this
19 section, the changes in law made by this Act apply to the estate of a
20 decedent that is pending or commenced on or after January 1, 2014,
21 regardless of the date of the decedent's death.

22 (b) The changes in law made by this Act to Sections 204.151
23 and 204.152, Estates Code, apply only to a proceeding to declare
24 heirship commenced on or after January 1, 2014. A proceeding to
25 declare heirship commenced before that date is governed by the law
26 in effect on the date the proceeding was commenced, and the former
27 law is continued in effect for that purpose.

1 (c) The changes in law made by this Act to Section
2 304.001(c), Estates Code, apply only to an application for the
3 grant of letters testamentary or of administration of a decedent's
4 estate filed on or after January 1, 2014. An application for the
5 grant of letters testamentary or of administration of a decedent's
6 estate filed before that date is governed by the law in effect on
7 the date the application was filed, and the former law is continued
8 in effect for that purpose.

9 SECTION 9. This Act takes effect January 1, 2014.