

By: Ellis

S.B. No. 1792

A BILL TO BE ENTITLED

AN ACT

relating to access to a financial institution account of a person who dies intestate.

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

SECTION 1. The heading to Subtitle D, Title 2, Estates Code, is amended to read as follows:

SUBTITLE D. PROCEEDINGS AND OTHER PROCEDURES BEFORE ADMINISTRATION OF ESTATE

SECTION 2. Subtitle D, Title 2, Estates Code, is amended by adding Chapter 153 to read as follows:

CHAPTER 153. ACCESS TO INTESTATE'S ACCOUNT WITH FINANCIAL INSTITUTION

Sec. 153.001. DEFINITIONS. In this chapter:

(1) "Account" has the meaning assigned by Section 113.001.

(2) "Financial institution" has the meaning assigned by Section 201.101, Finance Code.

(3) "P.O.D. account" and "trust account" have the meanings assigned by Section 113.004.

Sec. 153.002. INAPPLICABILITY OF CHAPTER. This chapter does not apply to:

(1) an account with a beneficiary designation;

(2) a P.O.D. account;

(3) a trust account; or

1 (4) an account that provides for a right of
2 survivorship.

3 Sec. 153.003. COURT-ORDERED ACCESS TO INTESTATE'S ACCOUNT
4 INFORMATION. On application of any person or on the court's own
5 motion, a court may issue an order requiring a financial
6 institution to release to the person named in the order information
7 concerning the balance of each account that is maintained at the
8 financial institution of a decedent who dies intestate if:

9 (1) 90 days have elapsed since the date of the
10 decedent's death;

11 (2) no petition for the appointment of a personal
12 representative for the decedent's estate is pending; and

13 (3) no letters testamentary or of administration have
14 been granted with respect to the estate.

15 Sec. 153.004. ACCESS TO INTESTATE'S ACCOUNT INFORMATION
16 WITHOUT COURT ORDER. On presentation of a certified copy of the
17 decedent's death certificate and an affidavit that complies with
18 Section 153.005, a financial institution may release to an heir of a
19 decedent who dies intestate information concerning the balance of
20 each of the decedent's accounts that is maintained at the financial
21 institution if 90 days have elapsed since the date of the decedent's
22 death.

23 Sec. 153.005. FORM OF AFFIDAVIT. An affidavit presented to
24 a financial institution under this chapter must be in substantially
25 the following form:

26 AFFIDAVIT

27 Before me, the undersigned authority, on this day personally

1 appeared _____ ("Affiant") (insert name of affiant) who, being
2 first duly sworn, on his or her oath states:

3 My name is _____ (insert name of affiant), and I live at
4 _____ (insert address of affiant's residence).

5 I am an heir of _____ (insert name of decedent),
6 who is the holder of an account ("Account holder") maintained with
7 _____ (insert name of financial institution). I am the
8 account holder's _____ (insert "surviving
9 spouse," "parent," "descendant," or other description of a familial
10 relationship to the account holder).

11 The account holder died on _____ (insert decedent's date
12 of death).

13 To the best of my knowledge no will of the account holder has
14 been probated and there is no will that will be offered for probate.
15 In addition, to the best of my knowledge there is no administration
16 of the account holder's estate pending in a court of this state, and
17 it is my belief that no administration of the estate is necessary.

18 Signed this ____ day of _____, ____.

19 _____
20 (signature of affiant)

21 State of _____

22 County of _____

23 Sworn to and subscribed to before me on _____ (date) by
24 _____ (insert name of affiant).

25 _____
26 (signature of notarial officer)

27 (Seal, if any, of notary) _____

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1 (printed name)

2 My commission expires: _____

3 SECTION 3. This Act takes effect September 1, 2015.