

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 5, 2015

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB995 by Rodríguez (Relating to decedents' estates.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend multiple chapters of the Estates Code, relating to decedents' estates.

The bill would define terms, including a T.O.D. or transfer on death account and an irrevocable trust, and would make nonsubstantive clarifications to several sections.

Substantive changes address or clarify: the disposition of property in an irrevocable trust to a former spouse of the testator; the effect of dissolution of marriage on certain third-party or "pay on death" accounts; inheritance rights of a "person in being," defined as a child born before, or in gestation at, the time of the intestate's death, and surviving for at least 120 hours; presumptions regarding period of gestation; waiver of service of citation under certain circumstances; exempting written wills executed in another state or country from certain Texas attestation and proof requirements. The bill would also clarify: that a court may not prohibit a person from either executing a new will or codicil or revoking an existing will; intent of sections regarding forfeiture clauses; when an independent executor is required to provide a verified, detailed inventory and appraisal to a beneficiary; the kinds of property in an estate that is exempt from execution or forced sale and the treatment of exempt property in an insolvent estate; that agreements to create an estate can be provided in one or more documents rather than a single application.

The bill would add a new Subchapter I to Chapter 255 regarding posthumous class gifts, providing that members of the class would include persons born before, or in gestation at the time of the testator's death and surviving at least 120 hours. A new Subchapter J would be added to Chapter 255 authorizing judicial modification or reformation of wills under certain circumstances on the petition of a personal representative, and giving the court discretion to conform a will as nearly as possible to the probable intent of the testator. The subchapter would not limit a court's powers under other law to modify, reform, or terminate a testamentary trust. A new Chapter 456 would be added regarding the disbursement and closing of lawyer trust or escrow accounts upon the death of the lawyer. It would authorize the personal representative of an estate to hire a lawyer to disburse funds to the appropriate persons and close the account, and would address the duties and liabilities of the institution where the account is located. It would authorize the supreme court to adopt rules regarding the administration of funds in a trust or escrow account subject to the new Chapter 456.

The bill makes technical corrections to the introduced bill and modifies provisions regarding property in an estate that is exempt from execution or forced sale.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, FR, AG, SD, SJS