88R6186 KFF-F

By:  Smithee H.B. No. 2821

A BILL TO BE ENTITLED

AN ACT

relating to decedents' estates and the delivery of certain notices or other communications in connection with those estates or multiple-party accounts.

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

SECTION 1.  Chapter 22, Estates Code, is amended by adding Section 22.0295 to read as follows:

Sec. 22.0295.  QUALIFIED DELIVERY METHOD. "Qualified delivery method" means delivery by:

(1)  hand delivery by courier, with courier's proof of delivery receipt;

(2)  certified or registered mail, return receipt requested, with return receipt; or

(3)  a private delivery service designated as a designated delivery service by the United States Secretary of the Treasury under Section 7502(f)(2), Internal Revenue Code of 1986, with proof of delivery receipt.

SECTION 2.  The heading to Section 51.052, Estates Code, is amended to read as follows:

Sec. 51.052.  SERVICE BY MAIL OR PRIVATE DELIVERY.

SECTION 3.  Sections 51.052(b), (c), (d), (e), (f), and (g), Estates Code, are amended to read as follows:

(b)  Except as provided by Subsection (c), the county clerk shall issue a citation or notice required or permitted to be served by a qualified delivery method [~~registered or certified mail~~] and shall serve the citation or notice by sending [~~mailing~~] the original citation or notice by a qualified delivery method [~~registered or certified mail~~].

(c)  A personal representative shall issue a notice required to be given by the representative by a qualified delivery method [~~registered or certified mail~~] and shall serve the notice by sending [~~mailing~~] the original notice by a qualified delivery method [~~registered or certified mail~~].

(d)  The county clerk or personal representative, as applicable, shall send [~~mail~~] a citation or notice under Subsection (b) or (c) with an instruction to deliver the citation or notice to the addressee only and with return receipt or other proof of delivery requested.  The clerk or representative, as applicable, shall address the envelope containing the citation or notice to:

(1)  the attorney of record in the proceeding for the person to be cited or notified; or

(2)  the person to be cited or notified, if the citation or notice to the attorney is returned undelivered or the person to be cited or notified has no attorney of record in the proceeding.

(e)  Service by a qualified delivery method [~~mail~~] shall be made at least 20 days before the return day of the service, excluding the date of service.  The date of service [~~by mail~~] is the date of mailing, the date of deposit with the private delivery service, or the date of delivery by the courier, as applicable.

(f)  A copy of a citation or notice served under Subsection (a), (b), or (c), together with a certificate of the person serving the citation or notice showing that the citation or notice was sent [~~mailed~~] and the date of the mailing, date of deposit with a private delivery service, or date of delivery by courier, as applicable, shall be filed and recorded.  A returned receipt or proof of delivery receipt for a citation or notice served under Subsection (b) or (c) shall be attached to the certificate.

(g)  If a citation or notice served by a qualified delivery method [~~mail~~] is returned undelivered, a new citation or notice shall be issued.  Service of the new citation or notice must be made by posting.

SECTION 4.  Section 51.055(a), Estates Code, is amended to read as follows:

(a)  If a party is represented by an attorney of record in a probate proceeding, each citation or notice required to be served on the party in that proceeding shall be served instead on that attorney.  A notice under this subsection may be served by delivery to the attorney in person or by a qualified delivery method [~~registered or certified mail~~].

SECTION 5.  Section 51.056, Estates Code, is amended to read as follows:

Sec. 51.056.  SERVICE ON PERSONAL REPRESENTATIVE OR RECEIVER. Unless this title expressly provides for another method of service, the county clerk who issues a citation or notice required to be served on a personal representative or receiver shall serve the citation or notice by sending [~~mailing~~] the original citation or notice by a qualified delivery method [~~registered or certified mail~~] to:

(1)  the representative's or receiver's attorney of record; or

(2)  the representative or receiver, if the representative or receiver does not have an attorney of record.

SECTION 6.  Section 51.103(b), Estates Code, is amended to read as follows:

(b)  Proof of service consists of:

(1)  if the service is made by a sheriff or constable, the return of service;

(2)  if the service is made by a private person, the person's affidavit;

(3)  if the service is made by a qualified delivery method [~~mail~~]:

(A)  the certificate of the county clerk making the service, or the affidavit of the personal representative or other person making the service, stating that the citation or notice was mailed, deposited with a private delivery service, or delivered by courier, as applicable, and the date of the mailing or deposit with the delivery service or the date of the courier delivery, as applicable; and

(B)  the return receipt or other proof of delivery receipt attached to the certificate or affidavit, as applicable, if the sending [~~mailing~~] was by a qualified delivery method [~~registered or certified mail~~] and a receipt is available [~~has been returned~~]; and

(4)  if the service is made by publication:

(A)  a statement:

(i)  made by the Office of Court Administration of the Texas Judicial System or an employee of the office;

(ii)  that contains or to which is attached a copy of the published citation or notice; and

(iii)  that states the date of publication on the public information Internet website maintained as required by Section 72.034, Government Code[~~, as added by Chapter 606 (S.B. 891), Acts of the 86th Legislature, Regular Session, 2019~~]; and

(B)  an affidavit:

(i)  made by the publisher of the newspaper in which the citation or notice was published or an employee of the publisher;

(ii)  that contains or to which is attached a copy of the published citation or notice; and

(iii)  that states the date of publication printed on the newspaper in which the citation or notice was published.

SECTION 7.  Section 56.002(b), Estates Code, is amended to read as follows:

(b)  The resident agent shall send, by a qualified delivery method [~~certified mail, return receipt requested~~], a copy of a resignation statement filed under Subsection (a) to:

(1)  the personal representative at the address most recently known by the resident agent; and

(2)  each party in the case or the party's attorney or other designated representative of record.

SECTION 8.  The heading to Section 101.052, Estates Code, is amended to read as follows:

Sec. 101.052.  LIABILITY OF COMMUNITY PROPERTY FOR DEBTS [~~OF DECEASED SPOUSE~~].

SECTION 9.  Section 101.052, Estates Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a)  The community property that was by law under [~~subject to~~] the sole management, control, and disposition of a spouse or under the joint management, control, and disposition of the spouses [~~a spouse~~] during marriage continues to be subject to the liabilities of that spouse on the death of either spouse.

(a-1)  The undivided one-half interest that the surviving spouse owned in community property that was by law under the sole management, control, and disposition of the deceased spouse during marriage is subject to the liabilities of the surviving spouse on the death of the deceased spouse.

(b)  The undivided one-half interest that the deceased spouse owned in [~~any other nonexempt~~] community property that was by law under the sole management, control, and disposition of the surviving spouse during marriage passes to the deceased spouse's heirs or devisees charged with the liabilities of [~~debts that were enforceable against~~] the deceased spouse [~~before death~~].

SECTION 10.  Sections 113.001(1) and (8), Estates Code, are amended to read as follows:

(1)  "Account" means a contract of deposit of funds or securities between a depositor and a financial institution. The term includes:

(A)  an account with cash deposits, including a checking account, savings account, certificate of deposit, and share account;

(B)  an account holding securities, including stocks, bonds, and mutual funds; and

(C)  another [~~, or other~~] similar arrangement.

(8)  "Sums on deposit" means the balance payable or transferable on a multiple-party account including cash, interest, dividends, [~~and~~] any deposit of life insurance proceeds, and any type of securities, including stocks, bonds, and mutual funds, added to the account by reason of the death of a party.

SECTION 11.  Section 113.251(c), Estates Code, is amended to read as follows:

(c)  Not later than the 30th day after the date a security interest on a multiple-party account is perfected, a secured creditor that is a financial institution with accounts insured by the Federal Deposit Insurance Corporation shall provide written notice of the pledge of the account to any other party to the account who did not create the security interest.  The notice must be sent by a qualified delivery method [~~certified mail~~] to each other party at the last address the party provided to the depository bank.

SECTION 12.  Section 202.005, Estates Code, is amended to read as follows:

Sec. 202.005.  APPLICATION FOR PROCEEDING TO DECLARE HEIRSHIP.  A person authorized by Section 202.004 to commence a proceeding to declare heirship must file an application in a court specified by Section 33.004 to commence the proceeding.  The application must state:

(1)  the decedent's name and date and place of death;

(2)  the names and physical addresses where service can be had of the decedent's heirs, the relationship of each heir to the decedent, whether each heir is an adult or minor, and the true interest of the applicant and each of the heirs in the decedent's estate or in the trust, as applicable;

(3)  if the date or place of the decedent's death or the name or physical address where service can be had of an heir is not definitely known to the applicant, all the material facts and circumstances with respect to which the applicant has knowledge and information that might reasonably tend to show the date or place of the decedent's death or the name or physical address where service can be had of the heir;

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

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

(A)  the date of the marriage;

(B)  the name of the spouse;

(C)  the date and place of termination if the marriage was terminated; and

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

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

(7)  a general description of all property, as applicable:

(A)  belonging to the decedent's estate that is subject to distribution under a judgment in the proceeding; or

(B)  held in trust for the benefit of the decedent[~~, as applicable~~]; and

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

SECTION 13.  Section 202.051, Estates Code, is amended to read as follows:

Sec. 202.051.  SERVICE OF CITATION BY QUALIFIED DELIVERY METHOD [~~MAIL~~] WHEN RECIPIENT'S NAME AND ADDRESS ARE KNOWN OR ASCERTAINABLE. Except as provided by Section 202.054, citation in a proceeding to declare heirship must be served by a qualified delivery method [~~registered or certified mail~~] on:

(1)  each distributee who is 12 years of age or older and whose name and address are known or can be ascertained through the exercise of reasonable diligence; and

(2)  the parent, managing conservator, or guardian of each distributee who is younger than 12 years of age if the name and address of the parent, managing conservator, or guardian are known or can be reasonably ascertained.

SECTION 14.  Section 202.056, Estates Code, is amended to read as follows:

Sec. 202.056.  WAIVER OF SERVICE OF CITATION. (a) A [~~Except as provided by Subsection (b)(2), a~~] distributee who is 16 years of age or older may waive citation required by this subchapter to be served on the distributee.

(b)  A parent, managing conservator, guardian, attorney ad litem, or guardian ad litem of a [~~minor~~] distributee who is younger than 16 years of age may [~~:~~

[~~(1)  is younger than 12 years of age may~~] waive citation required by this subchapter to be served on the distributee[~~; and~~

[~~(2)  is 12 years of age or older may not waive citation required by this subchapter to be served on the distributee~~].

SECTION 15.  Section 202.151, Estates Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b)  Except as provided by Subsection (c), in a proceeding to declare heirship, testimony regarding a decedent's heirs and family history must be taken:

(1)  from two disinterested and credible witnesses in open court;

(2)  [~~,~~] by deposition in accordance with Section 51.203;

(3)  by a recorded statement of facts contained in:

(A)  an affidavit or instrument that satisfies the requirements of Section 203.001; or

(B)  a judgment of a court of record as specified by Section 203.001(a)(1)(B); [~~,~~] or

(4)  in accordance with the Texas Rules of Civil Procedure.

(c)  If it is shown to the court's satisfaction in a proceeding to declare heirship that, after a diligent search was made, only one disinterested and credible witness can be found who can make the required proof in the proceeding, the testimony of that witness must be taken:

(1)  in open court;

(2)  [~~,~~] by deposition in accordance with Section 51.203;

(3)  by a recorded statement of facts contained in:

(A)  an affidavit or instrument that satisfies the requirements of Section 203.001; or

(B)  a judgment of a court of record as specified by Section 203.001(a)(1)(B); [~~,~~] or

(4)  in accordance with the Texas Rules of Civil Procedure.

(d)  Notwithstanding any other law, a person interested in an estate solely because the person is a creditor or has a claim against the estate may serve as a witness under this section if the person is otherwise a credible witness.

SECTION 16.  Section 202.203, Estates Code, is amended to read as follows:

Sec. 202.203.  CORRECTION OF JUDGMENT AT REQUEST OF HEIR NOT PROPERLY SERVED. If an heir of a decedent who is the subject of a proceeding to declare heirship is not served with citation by a qualified delivery method [~~registered or certified mail~~] or personal service in the proceeding, the heir may:

(1)  have the judgment in the proceeding corrected by bill of review:

(A)  at any time, but not later than the fourth anniversary of the date of the judgment; or

(B)  after the passage of any length of time, on proof of actual fraud; and

(2)  recover the heir's just share of the property or the value of that share from:

(A)  the heirs named in the judgment; and

(B)  those who claim under the heirs named in the judgment and who are not bona fide purchasers for value.

SECTION 17.  Section 251.053, Estates Code, is amended to read as follows:

Sec. 251.053.  EXCEPTION FOR FOREIGN AND CERTAIN OTHER WILLS. A [~~Section 251.051 does not apply to a~~] written will does not need to meet the requirements of Section 251.051 if the will is executed in compliance with:

(1)  the law of the state or foreign country where the will was executed, as that law existed at the time of the will's execution; or

(2)  the law of the state or foreign country where the testator was domiciled or had a place of residence, as that law existed at the time of the will's execution or at the time of the testator's death.

SECTION 18.  Section 258.002, Estates Code, is amended by adding Subsections (d) and (e) to read as follows:

(d)  An heir who is 16 years of age or older may waive citation required by this section to be served on the heir.

(e)  The parent, managing conservator, guardian, attorney ad litem, or guardian ad litem of an heir who is younger than 16 years of age may waive citation required by this section to be served on the heir.

SECTION 19.  Section 304.003, Estates Code, is amended to read as follows:

Sec. 304.003.  PERSONS DISQUALIFIED TO SERVE AS EXECUTOR OR ADMINISTRATOR.  A person is not qualified to serve as an executor or administrator if the person is:

(1)  incapacitated;

(2)  a felon convicted under the laws of the United States or of any state of the United States unless:[~~,~~]

(A)  in accordance with law, the person has been pardoned or has had the person's civil rights restored; or

(B)  all of the distributees of the decedent agree on and collectively designate the person to serve as executor or administrator of the decedent's estate and acknowledge the conviction in:

(i)  an application for probate of the decedent's will;

(ii)  an application for letters testamentary or of administration of the decedent's estate; or

(iii)  one or more separate documents consenting to an application;

(3)  a nonresident of this state who:

(A)  is a natural person or corporation; and

(B)  has not:

(i)  appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate; or

(ii)  had that appointment filed with the court;

(4)  a corporation not authorized to act as a fiduciary in this state; or

(5)  a person whom the court finds unsuitable.

SECTION 20.  Section 305.001, Estates Code, is amended to read as follows:

Sec. 305.001.  DEFINITIONS. In this chapter:

(1)  "Bond" means a bond required by this chapter to be given by a person appointed to serve as a personal representative.

(2)  "Declaration" means a written declaration that may be made and signed by a person appointed to serve as a personal representative.

(3)  "Oath" means an oath that may [~~required by this chapter to~~] be taken by a person appointed to serve as a personal representative.

SECTION 21.  Section 305.002, Estates Code, is amended to read as follows:

Sec. 305.002.  MANNER OF QUALIFICATION OF PERSONAL REPRESENTATIVE. (a) A personal representative, other than an executor described by Subsection (b), is considered to have qualified when the representative has:

(1)  taken and filed the oath prescribed by Subchapter B or made, signed, and filed the declaration prescribed by Subchapter B;

(2)  filed the required bond with the clerk; and

(3)  obtained the judge's approval of the bond.

(b)  An executor who is not required to give a bond is considered to have qualified when the executor has taken and filed the oath prescribed by Subchapter B or made, signed, and filed the declaration prescribed by Subchapter B.

SECTION 22.  Section 305.003, Estates Code, is amended to read as follows:

Sec. 305.003.  PERIOD FOR TAKING OATH OR MAKING AND SIGNING DECLARATION.  An oath may be taken and subscribed or a declaration may be made and signed at any time before:

(1)  the 21st day after the date of the order granting letters testamentary or of administration, as applicable; or

(2)  the letters testamentary or of administration, as applicable, are revoked for a failure to qualify within the period allowed.

SECTION 23.  The heading to Subchapter B, Chapter 305, Estates Code, is amended to read as follows:

SUBCHAPTER B. OATHS OR DECLARATIONS

SECTION 24.  Section 305.051, Estates Code, is amended to read as follows:

Sec. 305.051.  OATH OR DECLARATION OF EXECUTOR OR ADMINISTRATOR WITH WILL ANNEXED. (a) Before the issuance of letters testamentary or letters of administration with the will annexed, the person named as executor or appointed as administrator with the will annexed shall:

(1)  take and subscribe an oath as prescribed by Subsection (b); or

(2)  make and sign a declaration as prescribed by Subsection (c).

(b)  If the person named as executor or appointed as administrator with the will annexed elects to take an oath under this section, the person shall take and subscribe an oath in substantially the following form:

I do solemnly swear that the writing offered for probate is the last will of \_\_\_\_\_\_\_\_ (insert name of testator), so far as I know or believe, and that I will well and truly perform all the duties of \_\_\_\_\_\_\_\_\_\_ (insert "executor of the will" or "administrator with the will annexed," as applicable) for the estate of \_\_\_\_\_\_\_ (insert name of testator).

(c)  If the person named as executor or appointed as administrator with the will annexed elects to make a declaration under this section, the person shall make and sign a declaration in substantially the following form:

My name is \_\_\_\_\_\_\_\_ (insert name of "executor of the will" or "administrator with the will annexed" as it appears on the order appointing the person as executor or administrator with the will annexed), my date of birth is \_\_\_\_\_\_\_\_ (insert date of birth of "executor of the will" or "administrator with the will annexed," as applicable), and my address is \_\_\_\_\_\_\_\_ (insert street, city, state, zip code, and country of "executor of the will" or "administrator with the will annexed," as applicable). I declare under penalty of perjury that the writing offered for probate is the last will of \_\_\_\_\_\_\_\_ (insert name of testator), so far as I know or believe. I also solemnly declare that I will well and truly perform all the duties of \_\_\_\_\_\_\_\_ (insert "executor of will" or "administrator with the will annexed," as applicable) for the estate of \_\_\_\_\_\_\_\_ (insert name of testator).

SECTION 25.  Section 305.052, Estates Code, is amended to read as follows:

Sec. 305.052.  OATH OR DECLARATION OF ADMINISTRATOR. (a) Before the issuance of letters of administration, the person appointed as administrator shall:

(1)  take and subscribe an oath as prescribed by Subsection (b); or

(2)  make and sign a declaration as prescribed by Subsection (c).

(b)  If the person appointed as administrator elects to take an oath under this section, the person shall take and subscribe an oath in substantially the following form:

I do solemnly swear that \_\_\_\_\_\_\_\_\_\_\_ (insert name of decedent), deceased, died \_\_\_\_\_\_\_ (insert "without leaving any lawful will" or "leaving a lawful will, but the executor named in the will is dead or has failed to offer the will for probate or to accept and qualify as executor, within the period required," as applicable), so far as I know or believe, and that I will well and truly perform all the duties of administrator of the estate of \_\_\_\_\_\_\_\_ (insert name of testator) [~~the deceased~~].

(c)  If the person appointed as administrator elects to make a declaration under this section, the person shall make and sign a declaration in substantially the following form:

My name is \_\_\_\_\_\_\_\_ (insert name of administrator as it appears on the order appointing the person as administrator), my date of birth is \_\_\_\_\_\_\_\_ (insert date of birth of "administrator"), and my address is \_\_\_\_\_\_\_\_ (insert street, city, state, zip code, and country of "administrator"). I declare under penalty of perjury that \_\_\_\_\_\_\_\_ (insert name of decedent), deceased, died \_\_\_\_\_\_\_\_ (insert "without leaving any lawful will" or "leaving a lawful will, but the executor named in the will is dead or has failed to offer the will for probate or to accept and qualify as executor, within the period required," as applicable), so far as I know or believe. I also solemnly declare that I will well and truly perform all the duties of administrator of the estate of \_\_\_\_\_\_\_\_ (insert name of decedent).

SECTION 26.  Section 305.053, Estates Code, is amended to read as follows:

Sec. 305.053.  OATH OR DECLARATION OF TEMPORARY ADMINISTRATOR. (a) Before the issuance of temporary letters of administration, the person appointed as temporary administrator shall:

(1)  take and subscribe an oath as prescribed by Subsection (b); or

(2)  make and sign a declaration as prescribed by Subsection (c).

(b)  If the person appointed as temporary administrator elects to take an oath under this section, the person shall take and subscribe an oath in substantially the following form:

I do solemnly swear that I will well and truly perform the duties of temporary administrator of the estate of \_\_\_\_\_\_\_\_\_\_ (insert name of decedent), deceased, in accordance with the law, and with the order of the court appointing me as temporary administrator.

(c)  If the person appointed as temporary administrator elects to make a declaration under this section, the person shall make and sign a declaration in substantially the following form:

My name is \_\_\_\_\_\_\_ (insert name of temporary administrator as it appears on the order appointing the person as temporary administrator), my date of birth is \_\_\_\_\_\_\_ (insert date of birth of "temporary administrator"), and my address is \_\_\_\_\_\_\_ (insert street, city, state, zip code, and country of "temporary administrator"). I solemnly declare that I will well and truly perform all the duties of temporary administrator of the estate of \_\_\_\_\_\_\_ (insert name of decedent), in accordance with the law, and with the order of the court appointing me as temporary administrator.

SECTION 27.  Section 305.055, Estates Code, is amended to read as follows:

Sec. 305.055.  FILING AND RECORDING OF OATH OR DECLARATION.  An oath or declaration shall be:

(1)  filed with the clerk of the court granting the letters testamentary or of administration, as applicable; and

(2)  recorded in the judge's probate docket.

SECTION 28.  Section 308.002(d), Estates Code, is amended to read as follows:

(d)  The notice required by this section must be sent by a qualified delivery method [~~registered or certified mail, return receipt requested~~].

SECTION 29.  Section 308.051(a), Estates Code, is amended to read as follows:

(a)  Within one month after receiving letters testamentary or of administration, a personal representative of an estate shall provide notice requiring each person who has a claim against the estate to present the claim within the period prescribed by law by:

(1)  having the notice published in a newspaper of general circulation in the county in which the letters were issued; and

(2)  if the decedent remitted or should have remitted taxes administered by the comptroller, sending the notice to the comptroller by a qualified delivery method [~~certified or registered mail~~].

SECTION 30.  Sections 308.053(c) and (d), Estates Code, are amended to read as follows:

(c)  Notice provided under this section must be:

(1)  sent by a qualified delivery method [~~certified or registered mail, return receipt requested~~]; and

(2)  addressed to the record holder of the claim at the record holder's last known post office address.

(d)  The following shall be filed with the clerk of the court in which the letters testamentary or of administration were issued:

(1)  a copy of each notice and of each return receipt or other proof of delivery receipt; and

(2)  the personal representative's affidavit stating:

(A)  that the notice was sent [~~mailed~~] as required by law; and

(B)  the name of the person to whom the notice was sent [~~mailed~~], if that name is not shown on the notice or receipt.

SECTION 31.  Section 308.054(a), Estates Code, is amended to read as follows:

(a)  At any time before an estate administration is closed, a personal representative may give notice by a qualified delivery method [~~certified or registered mail, return receipt requested,~~] to an unsecured creditor who has a claim for money against the estate.

SECTION 32.  Section 356.105(a), Estates Code, is amended to read as follows:

(a)  A successful bid or contract for the sale of estate personal property shall be reported to the court.  The laws regulating the approval or disapproval of a sale of real estate apply to the sale, except that a conveyance is not required.

SECTION 33.  Section 356.654(b), Estates Code, is amended to read as follows:

(b)  Before purchasing estate property as authorized by Subsection (a), the personal representative shall give notice of the purchase by a qualified delivery method [~~certified mail, return receipt requested~~], unless the court requires another form of notice, to:

(1)  each distributee of the estate; and

(2)  each creditor whose claim remains unsettled after being presented within six months of the date letters testamentary or of administration are originally granted.

SECTION 34.  Section 361.052(b), Estates Code, is amended to read as follows:

(b)  If a personal representative, as executor or administrator, fails to timely file the affidavit or certificate required by Section 308.004, the court, on the court's own motion, may remove the personal representative after providing 30 days' written notice to the personal representative to answer at a time and place set in the notice, by a qualified delivery method [~~certified mail, return receipt requested,~~] to:

(1)  the representative's last known address; and

(2)  the last known address of the representative's attorney of record.

SECTION 35.  Sections 362.005(b) and (c), Estates Code, are amended to read as follows:

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

(1)  contain:

(A)  a statement that an account for final settlement has been presented;

(B)  the time and place the court will consider the account; and

(C)  a statement requiring the person cited to appear and contest the account, if the person wishes to contest the account; and

(2)  be given to each heir or distributee of the decedent by a qualified delivery method [~~certified mail, return receipt requested,~~] unless the court by written order directs another method of service to be given.

(c)  The personal representative shall also provide to each person entitled to citation under Subsection (b) a copy of the account for final settlement either by:

(1)  a qualified delivery method [~~certified mail, return receipt requested~~]; or

(2)  electronic delivery, including facsimile or e-mail.

SECTION 36.  Section 403.056(a), Estates Code, is amended to read as follows:

(a)  Notice to the independent executor required by Sections 403.052 and 403.055 must be contained in:

(1)  a written instrument that complies with Section 355.004 and is sent by a qualified delivery method [~~hand-delivered with proof of receipt, or mailed by certified mail, return receipt requested with proof of receipt,~~] to the independent executor or the executor's attorney;

(2)  a pleading filed in a lawsuit with respect to the claim; or

(3)  a written instrument that complies with Section 355.004 or a pleading filed in the court in which the administration of the estate is pending.

SECTION 37.  Section 404.0035(a), Estates Code, is amended to read as follows:

(a)  The probate court, on the court's own motion, may remove an independent executor appointed under this subtitle after providing 30 days' written notice of the court's intention to the independent executor, requiring answering at a time and place set in the notice, by a qualified delivery method [~~certified mail, return receipt requested~~], to the independent executor's last known address and to the last known address of the independent executor's attorney of record, if the independent executor:

(1)  neglects to qualify in the manner and time required by law;

(2)  fails to return, before the 91st day after the date the independent executor qualifies, either an inventory of the estate property and a list of claims that have come to the independent executor's knowledge or an affidavit in lieu of the inventory, appraisement, and list of claims, unless that deadline is extended by court order; or

(3)  fails to timely file the affidavit or certificate required by Section 308.004.

SECTION 38.  Section 452.006(a), Estates Code, is amended to read as follows:

(a)  On the date the county clerk issues letters of temporary administration:

(1)  the county clerk shall post on the courthouse door a notice of the appointment to all interested persons; and

(2)  the appointee shall notify, by a qualified delivery method [~~certified mail, return receipt requested~~], the decedent's known heirs of the appointment.

SECTION 39.  Section 453.003(a), Estates Code, is amended to read as follows:

(a)  If there is no qualified executor or administrator of a deceased spouse's estate, the surviving spouse, as the surviving partner of the marital partnership, may:

(1)  sue and be sued to recover community property;

(2)  sell, mortgage, lease, and otherwise dispose of community property to pay community debts, for which a portion of community property is liable for payment;

(3)  collect claims due to the community estate; and

(4)  exercise other powers as necessary to:

(A)  preserve the community property;

(B)  discharge community obligations, for which a portion of community property is liable for payment; and

(C)  wind up community affairs.

SECTION 40.  Section 453.006, Estates Code, is amended to read as follows:

Sec. 453.006.  ACCOUNT OF [~~COMMUNITY~~] DEBTS AND DISPOSITION OF COMMUNITY PROPERTY. (a) The surviving spouse shall keep a fair and full account and statement of:

(1)  all [~~community~~] debts and expenses paid by the surviving spouse; and

(2)  the disposition made of the community property.

(b)  The surviving spouse or personal representative shall keep a separate, distinct account of all [~~community~~] debts allowed or paid in the administration and settlement of an estate described by Section 101.052 [~~Sections 101.052(a) and (b)~~].

SECTION 41.  Section 453.007, Estates Code, is amended to read as follows:

Sec. 453.007.  DELIVERY OF COMMUNITY ESTATE ON FINAL PARTITION. On final partition of the community estate, the surviving spouse shall deliver to the deceased spouse's heirs or devisees their interest in the estate, and the increase in and profits of the interest, after deducting from the interest:

(1)  the proportion of the [~~community~~] debts chargeable to the interest;

(2)  unavoidable losses;

(3)  necessary and reasonable expenses; and

(4)  a reasonable commission for the management of the interest.

SECTION 42.  The heading to Section 453.009, Estates Code, is amended to read as follows:

Sec. 453.009.  DISTRIBUTION OF POWERS BETWEEN PERSONAL REPRESENTATIVE AND SURVIVING SPOUSE DURING ADMINISTRATION.

SECTION 43.  Section 453.009(b), Estates Code, is amended to read as follows:

(b)  During administration of a deceased spouse's estate, the [~~The~~] surviving spouse, as surviving partner of the marital partnership, is entitled to:

(1)  retain possession and control of the community property that was legally under the sole management of the surviving spouse during the marriage; and

(2)  exercise over that property any power this chapter authorizes the surviving spouse to exercise if there is no administration pending on the deceased spouse's estate.

SECTION 44.  Section 501.003(b), Estates Code, is amended to read as follows:

(b)  For an application described by Section 501.002(b), a citation shall be issued and served by a qualified delivery method [~~registered or certified mail~~] on each devisee and heir identified in the application.

SECTION 45.  Section 505.005(a), Estates Code, is amended to read as follows:

(a)  On receipt of a notice or process described by Section 505.004(a)(2), the secretary of state shall promptly forward the notice or process by a qualified delivery method [~~registered or certified mail~~] to the officer, agent, or other person designated by the foreign corporate fiduciary under Section 505.004 to receive the notice or process.

SECTION 46.  Section 505.101(a), Estates Code, is amended to read as follows:

(a)  On giving notice by a qualified delivery method [~~registered or certified mail~~] to all creditors of a decedent in this state who have filed a claim against the decedent's estate for a debt due to the creditor, a foreign executor or administrator of a person who was a nonresident at the time of death may maintain a suit in this state for the recovery of debts due to the decedent.

SECTION 47.  Section 551.005(b), Estates Code, is amended to read as follows:

(b)  The clerk of a court that orders an executor or administrator to pay funds to the comptroller under Section 551.001 shall provide to the comptroller, by a qualified delivery method [~~certified mail~~] or e-mail, a certified copy of the court order not later than the fifth day after the date the order is issued.

SECTION 48.  Sections 51.052(b), (c), (d), (e), (f), and (g), 51.055(a), 51.056, 51.103(b), 56.002(b), 113.251(c), 202.051, 202.203, 305.001, 305.002, 305.003, 305.051, 305.052, 305.053, 305.055, 308.002(d), 308.051(a), 308.053(c) and (d), 308.054(a), 356.654(b), 361.052(b), 362.005(b) and (c), 403.056(a), 404.0035(a), 452.006(a), 501.003(b), 505.005(a), 505.101(a), and 551.005(b), Estates Code, as amended by this Act, apply only to an action filed or proceeding commenced on or after the effective date of this Act.

SECTION 49.  The amendments of this Act to Sections 101.052, 202.005, 202.151(b) and (c), 251.053, 356.105(a), 453.003(a), 453.006, 453.007, and 453.009, Estates Code, are intended to clarify rather than change existing law.

SECTION 50.  Section 113.001, Estates Code, as amended by this Act, applies to an account established before, on, or after the effective date of this Act.

SECTION 51.  Section 113.251(c), Estates Code, as amended by this Act, applies only to multiple-party accounts created or existing on or after the effective date of this Act.

SECTION 52.  Section 202.056, Estates Code, as amended by this Act, applies only to a proceeding to declare heirship commenced on or after the effective date of this Act. A proceeding to declare heirship commenced before that date is governed by the law in effect on the date the proceeding was commenced, and the former law is continued in effect for that purpose.

SECTION 53.  Section 202.151(d), Estates Code, as added by this Act, applies only to a proceeding to declare heirship commenced on or after the effective date of this Act. A proceeding to declare heirship commenced before that date is governed by the law in effect on the date the proceeding was commenced, and the former law is continued in effect for that purpose.

SECTION 54.  Sections 258.002(d) and (e), Estates Code, as added by this Act, apply only to an application for the probate of a will filed on or after the effective date of this Act. An application for the probate of a will filed before that date is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 55.  Section 304.003, Estates Code, as amended by this Act, applies only to an application for letters testamentary or for letters of administration filed on or after the effective date of this Act. An application for letters testamentary or for letters of administration filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 56.  This Act takes effect September 1, 2023.