

BILL ANALYSIS

H.B. 3136
By: Naishtat
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties explain that small estate affidavits allow settlement of estates without going through the probate process. The parties note, however, that while a small estate affidavit may be approved only if the value of non-exempt assets exclusive of a homestead does not exceed \$50,000, state law does not require an applicant to list which of these assets are claimed to be exempt. H.B. 3136 seeks to address the lack of direction or guidelines in statute in this regard.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 3136 amends the Estates Code to require a list of all known estate assets and liabilities in an application for a small estate affidavit to entitle the distributee of the estate of a decedent who dies intestate to the decedent's estate without waiting for the appointment of a personal representative of the estate to indicate which assets the applicant claims are exempt. The bill establishes, for the purpose of a small estate affidavit, that a reference to "homestead" or "exempt property" means only a homestead or other exempt property that would be eligible to be set aside as exempt property if the decedent's estate was being administered.

EFFECTIVE DATE

September 1, 2015.