

BILL ANALYSIS

Senate Research Center
84R18065 CLG-F

C.S.S.B. 1792
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State Affairs
4/14/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties point out that, in certain cases when someone dies without a will, a small estate affidavit can be a less expensive way of probating the estate than traditional estate administration. However, the parties emphasize that filing a small estate affidavit requires a demonstration that estate assets exceed known liabilities and that a lack of access to an account balance at a bank or other financial institution can be a barrier to families who would otherwise be able to use a small estate affidavit. The parties believe that a mechanism is needed for a decedent's heirs to obtain information that would enable them to avoid a costly probate administration. C.S.S.B. 1792 seeks to provide that mechanism.

C.S.S.B. 1792 amends current law relating to access to a financial institution account of a person who dies intestate.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle D, Title 2, Estates Code, by adding Chapter 153, as follows:

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

Sec. 153.001. DEFINITIONS. Defines "account," "financial institution," "P.O.D. account," and "trust account."

Sec. 153.002. INAPPLICABILITY OF CHAPTER. Provides that this chapter does not apply to:

- (1) an account with a beneficiary designation;
- (2) a P.O.D. account;
- (3) a trust account; or
- (4) an account that provides for a right of survivorship.

Sec. 153.003. COURT-ORDERED ACCESS TO INTESTATE'S ACCOUNT INFORMATION. (a) Defines "interested person."

(b) Authorizes a court to issue, on application of an interested person or on the court's own motion, an order requiring a financial institution to release to the person named in the order information concerning the balance of each account that is maintained at the financial institution of a decedent who dies intestate if:

- (1) 90 days have elapsed since the date of the decedent's death;
- (2) no petition for the appointment of a personal representative for the decedent's estate is pending; and

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

SECTION 2. Effective date: September 1, 2015.