

BILL ANALYSIS

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C.S.S.B. 1106
By: Harris
Jurisprudence
3/23/1999
Committee Report (Substituted)

DIGEST

Currently, Texas law requires any sworn affidavit concerning the identity of heirs to be accepted as prima facie evidence in the proceeding to declare heirship. However, there is no standard for the affidavit. C.S.S.B. 1106 would create a voluntary standard affidavit that can be used for the purposes stipulated in Section 52, Probate Code.

PURPOSE

As proposed, C.S.S.B. 1106 to set forth a statement of facts concerning the identity of heirs.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 52, Texas Probate Code, to authorize an affidavit of facts concerning the identity of heirs of a decedent as to an interest in real property that is filed in a proceeding or suit to be in the form described by Section 52A of this code. Provides that an affidavit of facts concerning the identity of heirs of a decedent does not affect the rights of an omitted heir or a creditor of the decedent as otherwise provided by law. Requires this statute to be cumulative, and shall not be construed as abrogating any right to present evidence or to rely on an affidavit of facts conferred by any other statute or rule of law.

SECTION 2. Amends Chapter III, Texas Probate Code, by adding Section 52A, as follows:

Sec. 52A. FORM OF AFFIDAVIT OF FACTS CONCERNING IDENTITY OF HEIRS. Sets forth an affidavit of facts concerning the identity of heirs of a decedent.

SECTION 3. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 2.

Amends Chapter III, Texas Probate Code, to delete provisions regarding a modified statement if the decedent left a will, whether there has been in an affidavit administration of the decedent's estate, and a list of the decedent's heirs in the form of affidavit of facts concerning identity of heirs.