

BILL ANALYSIS

Senate Research Center
84R8252 MTB-F

H.B. 3136
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Small estate affidavits allow settlement of estates without having to go through the probate process. 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, which results in many low-income persons, including minors and persons with disabilities, losing some of these exempt assets to creditors. H.B. 3136 requires applicants to list the assets to be exempted. This would provide protection against creditors for these assets.

H.B. 3136 amends current law relating to the use of a small estate affidavit to distribute certain intestate estates.

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 Section 205.002, Estates Code, as follows:

Sec. 205.002. AFFIDAVIT REQUIREMENTS. (a) Creates this subsection from existing text and makes no further change to this subsection.

(b) Requires that a list of all known estate assets under Subsection (a)(3)(A) indicate which assets the applicant claims are exempt.

SECTION 2. Amends Chapter 205, Estates Code, by adding Section 205.009, as follows:

Sec. 205.009. CONSTRUCTION OF CERTAIN REFERENCES. Provides that a reference in this chapter to "homestead" or "exempt property" means only a homestead or other exempt property that would be eligible to be set aside under Section 353.051 (Exempt Property to be Set Aside) if the decedent's estate was being administered.

SECTION 3. Provides that Section 205.009, Estates Code, as added by this Act, applies to the estate of a decedent that is pending on or after the effective date of this Act, regardless of the decedent's date of death.

SECTION 4. Effective date: September 1, 2015.