

## **BILL ANALYSIS**

Senate Research Center  
84R18065 CLG-F

H.B. 705  
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State Affairs  
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Engrossed

### **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. H.B. 705 seeks to provide that mechanism.

H.B. 705 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.