ESTATES CODE

TITLE 1. GENERAL PROVISIONS

CHAPTER 22. DEFINITIONS

Sec. 22.001. APPLICABILITY OF DEFINITIONS. (a) Except as provided by Subsection (b), the definition for a term provided by this chapter applies in this code unless a different meaning of the term is otherwise apparent from the context in which the term is used.

(b) If Title 3 provides a definition for a term that is different from the definition provided by this chapter, the definition for the term provided by Title 3 applies in that title.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.005, eff. January 1, 2014.

Sec. 22.002. AUTHORIZED CORPORATE SURETY. "Authorized corporate surety" means a domestic or foreign corporation authorized to engage in business in this state for the purpose of issuing surety, guaranty, or indemnity bonds that guarantee the fidelity of an executor or administrator.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.003. CHARITABLE ORGANIZATION. "Charitable organization" means:

(1) a nonprofit corporation, trust, community chest, fund, foundation, or other entity that is:

(A) exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being described by Section 501(c)(3) of that code; and

(B) organized and operated exclusively for:

(i) religious, charitable, scientific, educational, or literary purposes;

(ii) testing for public safety;

(iii) preventing cruelty to children or animals; or

(iv) promoting amateur sports competition; or

(2) any other entity that is organized and operated exclusively for the purposes listed in Section 501(c)(3), Internal Revenue Code of 1986.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.004. CHILD. (a) "Child" includes an adopted child, regardless of whether the adoption occurred through:

(1) an existing or former statutory procedure; or

(2) an equitable adoption or acts of estoppel.

(b) The term "child" does not include a child who does not have a presumed father unless a provision of this code expressly states that a child who does not have a presumed father is included.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 844 (H.B. 2271), Sec. 1, eff. September 1, 2017.

Sec. 22.005. CLAIMS. "Claims" includes:

(1) liabilities of a decedent that survive the decedent's death, including taxes, regardless of whether the liabilities arise in contract or tort or otherwise;

(2) funeral expenses;

(3) the expense of a tombstone;

(4) expenses of administration;

(5) estate and inheritance taxes; and

(6) debts due such estates.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.006. CORPORATE FIDUCIARY. "Corporate fiduciary" means a financial institution, as defined by Section 201.101,

Finance Code, that:

(1) is existing or engaged in business under the laws of this state, another state, or the United States;

(2) has trust powers; and

(3) is authorized by law to act under the order or appointment of a court of record, without giving bond, as receiver, trustee, executor, administrator, or, although the financial institution does not have general depository powers, depository for any money paid into the court, or to become sole guarantor or surety in or on any bond required to be given under the laws of this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.007. COURT; COUNTY COURT, PROBATE COURT, AND STATUTORY PROBATE COURT. (a) "Court" means and includes:

(1) a county court in the exercise of its probate jurisdiction;

(2) a court created by statute and authorized to exercise original probate jurisdiction; and

(3) a district court exercising original probate jurisdiction in a contested matter.

(b) The terms "county court" and "probate court" are synonymous and mean:

(1) a county court in the exercise of its probate jurisdiction;

(2) a court created by statute and authorized to exercise original probate jurisdiction; and

(3) a district court exercising probate jurisdiction in a contested matter.

(c) "Statutory probate court" means a court created by statute and designated as a statutory probate court under Chapter 25, Government Code. For purposes of this code, the term does not include a county court at law exercising probate jurisdiction unless the court is designated a statutory probate court under Chapter 25, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.008. DEVISE. "Devise":

(1) used as a noun, includes a testamentary disposition of real property, personal property, or both; and

(2) used as a verb, means to dispose of real property, personal property, or both, by will.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.009. DEVISEE. "Devisee" includes a legatee.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.010. DISTRIBUTEE. "Distributee" means a person who is entitled to a part of the estate of a decedent under a lawful will or the statutes of descent and distribution.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.011. DOCKET. "Docket" means the probate docket.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.012. ESTATE. "Estate" means a decedent's property, as that property:

(1) exists originally and as the property changes in form by sale, reinvestment, or otherwise;

(2) is augmented by any accretions and other additions to the property, including any property to be distributed to the decedent's representative by the trustee of a trust that terminates on the decedent's death, and substitutions for the property; and

(3) is diminished by any decreases in or distributions from the property.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.013. EXEMPT PROPERTY. "Exempt property" means the

property in a decedent's estate that is exempt from execution or forced sale by the constitution or laws of this state, and any allowance paid instead of that property.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.014. GOVERNMENTAL AGENCY OF THE STATE. "Governmental agency of the state" means:

(1) a municipality;

(2) a county;

(3) a public school district;

(4) a special-purpose district or authority;

(5) a board, commission, department, office, or other agency in the executive branch of state government, including an institution of higher education, as defined by Section 61.003, Education Code;

(6) the legislature or a legislative agency;

(7) the supreme court, the court of criminal appeals, a court of appeals, or a district, county, or justice of the peace court;

(8) a judicial agency having statewide jurisdiction; and

(9) the State Bar of Texas.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.015. HEIR. "Heir" means a person who is entitled under the statutes of descent and distribution to a part of the estate of a decedent who dies intestate. The term includes the decedent's surviving spouse.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.016. INCAPACITATED PERSON. A person is "incapacitated" if the person:

(1) is a minor;

(2) is an adult who, because of a physical or mental

condition, is substantially unable to:

(A) provide food, clothing, or shelter for himself or herself;

(B) care for the person's own physical health; or

(C) manage the person's own financial affairs; or

(3) must have a guardian appointed for the person to receive funds due the person from a governmental source.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.017. INDEPENDENT EXECUTOR. "Independent executor" means the personal representative of an estate under independent administration as provided by Chapter 401 and Section 402.001. The term includes an independent administrator.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.006, eff. January 1, 2014.

Sec. 22.018. INTERESTED PERSON; PERSON INTERESTED. "Interested person" or "person interested" means:

(1) an heir, devisee, spouse, creditor, or any other having a property right in or claim against an estate being administered; and

(2) anyone interested in the welfare of an incapacitated person, including a minor.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.019. JUDGE. "Judge" means the presiding judge of any court having original jurisdiction over probate proceedings, regardless of whether the court is:

(1) a county court in the exercise of its probate jurisdiction;

(2) a court created by statute and authorized to exercise probate jurisdiction; or

(3) a district court exercising probate jurisdiction in a contested matter.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.020. LEGACY. "Legacy" includes a gift or devise of real or personal property made by a will.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.021. LEGATEE. "Legatee" includes a person who is entitled to a legacy under a will.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.022. MINOR. "Minor" means a person younger than 18 years of age who:

(1) has never been married; and

(2) has not had the disabilities of minority removed for general purposes.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.024. MORTGAGE; LIEN. "Mortgage" and "lien" include:

(1) a deed of trust;

(2) a vendor's lien, a mechanic's, materialman's, or laborer's lien, an attachment or garnishment lien, and a federal or state tax lien;

(3) a chattel mortgage;

(4) a judgment; and

(5) a pledge by hypothecation.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.025. NET ESTATE. "Net estate" means a decedent's property excluding:

(1) homestead rights;

(2) exempt property;

(3) the family allowance; and

(4) an enforceable claim against the decedent's estate.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.026. NEXT OF KIN. "Next of kin" includes:

(1) an adopted child or the adopted child's descendants; and

(2) the adoptive parent of the adopted child.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.027. PERSON. (a) "Person" includes a natural person and a corporation.

(b) Except as otherwise provided by this code, the definition of "person" assigned by Section 311.005, Government Code, does not apply to any provision in this code.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 841 (S.B. 462), Sec. 2, eff. September 1, 2015.

Sec. 22.028. PERSONAL PROPERTY. "Personal property" includes an interest in:

(1) goods;

(2) money;

(3) a chose in action;

(4) an evidence of debt; and

(5) a real chattel.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.029. PROBATE MATTER; PROBATE PROCEEDINGS;

PROCEEDING IN PROBATE; PROCEEDINGS FOR PROBATE. The terms "probate matter," "probate proceedings," "proceeding in probate," and "proceedings for probate" are synonymous and include a matter or proceeding relating to a decedent's estate.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.0295. QUALIFIED DELIVERY METHOD. "Qualified delivery method" means delivery by:

(1) hand delivery by courier, with courier's proof of delivery receipt;

(2) certified or registered mail, return receipt requested, with return receipt; or

(3) a private delivery service designated as a designated delivery service by the United States Secretary of the Treasury under Section 7502(f)(2), Internal Revenue Code of 1986, with proof of delivery receipt.

Added by Acts 2023, 88th Leg., R.S., Ch. 205 (S.B. 1373), Sec. 1, eff. September 1, 2023.

Sec. 22.030. REAL PROPERTY. "Real property" includes estates and interests in land, whether corporeal or incorporeal or legal or equitable. The term does not include a real chattel.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.031. REPRESENTATIVE; PERSONAL REPRESENTATIVE. (a) "Representative" and "personal representative" include:

(1) an executor and independent executor;

(2) an administrator, independent administrator, and temporary administrator; and

(3) a successor to an executor or administrator listed in Subdivision (1) or (2).

(b) The inclusion of an independent executor in Subsection (a) may not be construed to subject an independent executor to the control of the courts in probate matters with respect to settlement of estates, except as expressly provided by law.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.032. SURETY. "Surety" includes a personal surety and a corporate surety.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.033. WARD. "Ward" means a person for whom a guardian has been appointed.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 22.034. WILL. "Will" includes:

(1) a codicil; and

(2) a testamentary instrument that merely:

(A) appoints an executor or guardian;

(B) directs how property may not be disposed of; or

(C) revokes another will.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.