

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY
SUBTITLE C. PASSAGE OF TITLE AND DISTRIBUTION OF DECEDENTS'
PROPERTY IN GENERAL

CHAPTER 111. NONPROBATE ASSETS IN GENERAL

SUBCHAPTER A. RIGHT OF SURVIVORSHIP AGREEMENTS
BETWEEN JOINT TENANTS

Sec. 111.001. RIGHT OF SURVIVORSHIP AGREEMENTS AUTHORIZED.

(a) Notwithstanding Section 101.002, two or more persons who hold an interest in property jointly may agree in writing that the interest of a joint owner who dies survives to the surviving joint owner or owners.

(b) An agreement described by Subsection (a) may not be inferred from the mere fact that property is held in joint ownership.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 111.002. AGREEMENTS CONCERNING COMMUNITY PROPERTY.

(a) Section 111.001 does not apply to an agreement between spouses regarding the spouses' community property.

(b) An agreement between spouses regarding a right of survivorship in community property is governed by Chapter 112.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

SUBCHAPTER B. OTHER PROVISIONS FOR PAYMENT OR TRANSFER
OF CERTAIN ASSETS ON DEATH

Sec. 111.051. DEFINITIONS. In this subchapter:

(1) "Contracting third party" means a financial institution, insurance company, plan custodian, plan administrator, or other person who is a party to an account agreement, insurance contract, annuity contract, retirement account, beneficiary designation, or other similar contract the

terms of which control whether a nontestamentary transfer has occurred or to whom property passes as a result of a possible nontestamentary transfer. The term does not include a person who is:

(A) an owner of the property subject to a possible nontestamentary transfer; or

(B) a possible recipient of the property subject to a possible nontestamentary transfer.

(1-a) "Employees' trust" means:

(A) a trust that forms a part of a stock-bonus, pension, or profit-sharing plan under Section 401, Internal Revenue Code of 1954 (26 U.S.C. Section 401 (1986));

(B) a pension trust under Chapter 111, Property Code; and

(C) an employer-sponsored benefit plan or program, or any other retirement savings arrangement, including a pension plan created under Section 3, Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1002 (1986)), regardless of whether the plan, program, or arrangement is funded through a trust.

(2) "Financial institution" has the meaning assigned by Section 113.001.

(3) "Individual retirement account" means a trust, custodial arrangement, or annuity under Section 408(a) or (b), Internal Revenue Code of 1954 (26 U.S.C. Section 408 (1986)).

(4) "Retirement account" means a retirement-annuity contract, an individual retirement account, a simplified employee pension, or any other retirement savings arrangement.

(5) "Retirement-annuity contract" means an annuity contract under Section 403, Internal Revenue Code of 1954 (26 U.S.C. Section 403 (1986)).

(6) "Simplified employee pension" means a trust, custodial arrangement, or annuity under Section 408, Internal Revenue Code of 1954 (26 U.S.C. Section 408 (1986)).

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 9, eff. January 1, 2014.

Sec. 111.052. VALIDITY OF CERTAIN NONTESTAMENTARY INSTRUMENTS AND PROVISIONS. (a) This code does not invalidate:

(1) any provision in an insurance policy, employment contract, bond, mortgage, promissory note, deposit agreement, employees' trust, retirement account, deferred compensation arrangement, custodial agreement, pension plan, trust agreement, conveyance of property, security, account with a financial institution, mutual fund account, or any other written instrument effective as a contract, gift, conveyance, or trust, stating that:

(A) money or other benefits under the instrument due to or controlled or owned by a decedent shall be paid after the decedent's death, or property that is the subject of the instrument shall pass, to a person designated by the decedent in the instrument or in a separate writing, including a will, executed at the same time as the instrument or subsequently; or

(B) money due or to become due under the instrument shall cease to be payable if the promisee or promisor dies before payment or demand; or

(2) an instrument described by Subdivision (1).

(b) A provision described by Subsection (a)(1) is considered nontestamentary.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 111.053. CREDITOR'S RIGHTS NOT LIMITED. Nothing in this subchapter limits the rights of a creditor under another law of this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 111.054. APPLICATION OF STATE LAW TO CERTAIN NONTESTAMENTARY TRANSFERS. (a) This section applies if more than 50 percent of the:

(1) assets in an account at a financial institution,

in a retirement account, or in another similar arrangement are owned, immediately before a possible nontestamentary transfer of the assets, by one or more persons domiciled in this state; or

(2) interests under an insurance contract, annuity contract, beneficiary designation, or other similar arrangement are owned, immediately before a possible nontestamentary transfer of the interests, by one or more persons domiciled in this state.

(b) Notwithstanding a choice of law or other contractual provision in an agreement prepared or provided by a contracting third party, Texas law applies to determine:

(1) whether a nontestamentary transfer of assets or interests described by Subsection (a) has occurred; and

(2) the ownership of the assets or interests following a possible nontestamentary transfer.

(c) Notwithstanding a choice of law or other contractual provision in an agreement prepared or provided by a contracting third party, any person, including a personal representative, who is asserting an ownership interest in assets or interests described by Subsection (a) subject to a possible nontestamentary transfer shall have access to the courts of this state for a judicial determination of:

(1) whether a nontestamentary transfer of the assets or interests has occurred; or

(2) the ownership of the assets or interests following a possible nontestamentary transfer.

(d) Subsections (a), (b), and (c) do not apply to an obligation:

(1) owed by a party to the contracting third party; or

(2) owed by the contracting third party to a party.

(e) This section applies to a community property survivorship agreement governed by Chapter 112 and a multiple-party account governed by Chapter 113.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 10, eff. January 1, 2014.

SUBCHAPTER C. PROVISION OF CERTAIN INFORMATION ON DEATH

Sec. 111.101. DEFINITIONS. In this subchapter:

(1) "Contracting third party" has the meaning assigned by Section [111.051](#).

(2) "Deceased party" means a deceased:

(A) party to a multiple-party account governed by Chapter [113](#);

(B) owner of property subject to a possible nontestamentary transfer as described by Section [111.051\(1\)](#); or

(C) insured under an insurance contract.

Added by Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. [2782](#)), Sec. 2, eff. September 1, 2019.

Sec. 111.102. PROVISION OF INFORMATION TO PERSONAL REPRESENTATIVE OF DECEASED PARTY. To the extent not prohibited by federal or other state law, a contracting third party shall, on request, provide to the personal representative of a deceased party's estate all information the contracting third party would have provided to the deceased party as of the date of the deceased party's death, if the deceased party had requested the information, without regard to whether the deceased party's estate has an interest in the multiple-party account, the property subject to a possible nontestamentary transfer, or the insurance contract.

Added by Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. [2782](#)), Sec. 2, eff. September 1, 2019.