

ESTATES CODE

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

CHAPTER 121. SURVIVAL REQUIREMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 121.001. APPLICABILITY OF CHAPTER. This chapter does not apply if provision has been made by will, living trust, deed, or insurance contract, or in any other manner, for a disposition of property that is different from the disposition of the property that would be made if the provisions of this chapter applied.

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

SUBCHAPTER B. SURVIVAL REQUIREMENT FOR INTESTATE SUCCESSION AND
CERTAIN OTHER PURPOSES

Sec. 121.051. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply if the application of this subchapter would result in the escheat of an intestate estate.

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

Sec. 121.052. REQUIRED PERIOD OF SURVIVAL FOR INTESTATE SUCCESSION AND CERTAIN OTHER PURPOSES. A person who does not survive a decedent by 120 hours is considered to have predeceased the decedent for purposes of the homestead allowance, exempt property, and intestate succession, and the decedent's heirs are determined accordingly, except as otherwise provided by this chapter.

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

Sec. 121.053. INTESTATE SUCCESSION: FAILURE TO SURVIVE PRESUMED UNDER CERTAIN CIRCUMSTANCES. A person who, if the person

survived a decedent by 120 hours, would be the decedent's heir is considered not to have survived the decedent for the required period if:

(1) the time of death of the decedent or of the person, or the times of death of both, cannot be determined; and

(2) the person's survival for the required period after the decedent's death cannot be established.

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

SUBCHAPTER C. SURVIVAL REQUIREMENTS FOR CERTAIN BENEFICIARIES

Sec. 121.101. REQUIRED PERIOD OF SURVIVAL FOR DEVISEE. A devisee who does not survive the testator by 120 hours is treated as if the devisee predeceased the testator unless the testator's will contains some language that:

(1) deals explicitly with simultaneous death or deaths in a common disaster; or

(2) requires the devisee to survive the testator, or to survive the testator for a stated period, to take under the will.

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

Sec. 121.102. REQUIRED PERIOD OF SURVIVAL FOR CONTINGENT BENEFICIARY. (a) If property is disposed of in a manner that conditions the right of a beneficiary to succeed to an interest in the property on the beneficiary surviving another person, the beneficiary is considered not to have survived the other person unless the beneficiary survives the person by 120 hours, except as provided by Subsection (b).

(b) If an interest in property is given alternatively to one of two or more beneficiaries, with the right of each beneficiary to take being dependent on that beneficiary surviving the other beneficiary or beneficiaries, and all of the beneficiaries die within a period of less than 120 hours, the property shall be divided into as many equal portions as there are beneficiaries. The portions shall be distributed respectively to

those who would have taken if each beneficiary had survived.

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

SUBCHAPTER D. DISTRIBUTION OF CERTAIN PROPERTY ON PERSON'S FAILURE
TO SURVIVE FOR REQUIRED PERIOD

Sec. 121.151. DISTRIBUTION OF COMMUNITY PROPERTY. (a) This section applies to community property, including the proceeds of life or accident insurance that are community property and become payable to the estate of either the husband or wife.

(b) If a husband and wife die leaving community property but neither survives the other by 120 hours, one-half of all community property shall be distributed as if the husband had survived, and the other one-half shall be distributed as if the wife had survived. Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 121.152. DISTRIBUTION OF PROPERTY OWNED BY JOINT OWNERS. If property, including community property with a right of survivorship, is owned so that one of two joint owners is entitled to the whole of the property on the death of the other, but neither survives the other by 120 hours, one-half of the property shall be distributed as if one joint owner had survived, and the other one-half shall be distributed as if the other joint owner had survived. If there are more than two joint owners and all of the joint owners die within a period of less than 120 hours, the property shall be divided into as many equal portions as there are joint owners and the portions shall be distributed respectively to those who would have taken if each joint owner survived.

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

Sec. 121.153. DISTRIBUTION OF CERTAIN INSURANCE PROCEEDS. (a) If the insured under a life or accident insurance policy and a beneficiary of the proceeds of that policy die within a period of less than 120 hours, the insured is considered to have survived the

beneficiary for the purpose of determining the rights under the policy of the beneficiary or beneficiaries as such.

(b) This section does not prevent the applicability of Section [121.151](#) to proceeds of life or accident insurance that are community property.

Added by Acts 2009, 81st Leg., R.S., Ch. [680](#), Sec. 1, eff. January 1, 2014.