

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE J. ADDITIONAL MATTERS RELATING TO THE ADMINISTRATION OF
CERTAIN ESTATES

CHAPTER 453. ADMINISTRATION OF COMMUNITY PROPERTY

Sec. 453.001. EFFECT OF CHAPTER. This chapter does not prohibit the administration of community property under other provisions of this title relating to the administration of an estate.

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

Sec. 453.002. ADMINISTRATION OF COMMUNITY PROPERTY NOT NECESSARY. If a spouse dies intestate and the community property passes to the surviving spouse, no administration of the community property is necessary.

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

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. [3421](#) and S.B. [1448](#), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 453.003. GENERAL POWERS OF SURVIVING SPOUSE IF NO ADMINISTRATION IS PENDING. (a) If there is no qualified executor or administrator of a deceased spouse's estate, the surviving spouse, as the surviving partner of the marital partnership, may:

- (1) sue and be sued to recover community property;
- (2) sell, mortgage, lease, and otherwise dispose of community property to pay community debts, for which a portion of community property is liable for payment;
- (3) collect claims due to the community estate; and
- (4) exercise other powers as necessary to:
 - (A) preserve the community property;
 - (B) discharge community obligations, for which a portion of community property is liable for payment; and

(C) wind up community affairs.

(b) This section does not affect the disposition of the deceased spouse's property.

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

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 205 (S.B. 1373), Sec. 39, eff. September 1, 2023.

Sec. 453.004. COLLECTION OF UNPAID WAGES IF NO ADMINISTRATION IS PENDING. (a) If a person who owes money to the community estate for current wages at the time of a deceased spouse's death is provided an affidavit stating that the affiant is the surviving spouse and that no one has qualified as executor or administrator of the deceased spouse's estate, the person who pays or delivers to the affiant the deceased spouse's final paycheck for the wages, including any unpaid sick pay or vacation pay, is released from liability to the same extent as if the payment or delivery is made to the deceased spouse's personal representative. The person is not required to inquire into the truth of the affidavit.

(b) An affiant to whom the payment or delivery is made under Subsection (a) is answerable to a person having a prior right and is accountable to a personal representative who is appointed. The affiant is liable for any damage or loss to a person that arises from a payment or delivery made in reliance on the affidavit.

(c) This section does not affect the disposition of the deceased spouse's property.

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

Sec. 453.005. REMARRIAGE OF SURVIVING SPOUSE. The remarriage of a surviving spouse does not terminate the surviving spouse's powers as a surviving partner.

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

Sec. 453.006. ACCOUNT OF DEBTS AND DISPOSITION OF COMMUNITY PROPERTY. (a) The surviving spouse shall keep a fair and full account and statement of:

(1) all debts and expenses paid by the surviving spouse; and

(2) the disposition made of the community property.

(b) The surviving spouse or personal representative shall keep a separate, distinct account of all debts allowed or paid in the administration and settlement of an estate described by Section [101.052](#).

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

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 205 (S.B. [1373](#)), Sec. 40, eff. September 1, 2023.

Sec. 453.007. DELIVERY OF COMMUNITY ESTATE ON FINAL PARTITION. On final partition of the community estate, the surviving spouse shall deliver to the deceased spouse's heirs or devisees their interest in the estate, and the increase in and profits of the interest, after deducting from the interest:

(1) the proportion of the debts chargeable to the interest;

(2) unavoidable losses;

(3) necessary and reasonable expenses; and

(4) a reasonable commission for the management of the interest.

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

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 205 (S.B. [1373](#)), Sec. 41, eff. September 1, 2023.

Sec. 453.008. LIABILITY OF SURVIVING SPOUSE FOR LOSS. A surviving spouse is not liable for a loss sustained by the community estate unless the surviving spouse is guilty of gross negligence or bad faith.

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

Sec. 453.009. DISTRIBUTION OF POWERS BETWEEN PERSONAL REPRESENTATIVE AND SURVIVING SPOUSE DURING ADMINISTRATION. (a) A qualified personal representative of a deceased spouse's estate may administer:

- (1) the separate property of the deceased spouse;
- (2) the community property that was by law under the management of the deceased spouse during the marriage; and
- (3) the community property that was by law under the joint control of the spouses during the marriage.

(b) During administration of a deceased spouse's estate, the surviving spouse, as surviving partner of the marital partnership, is entitled to:

- (1) retain possession and control of the community property that was legally under the sole management of the surviving spouse during the marriage; and
- (2) exercise over that property any power this chapter authorizes the surviving spouse to exercise as if there is no administration pending on the deceased spouse's estate.

(c) The surviving spouse, by written instrument filed with the clerk, may waive any right to exercise powers as community survivor. If the surviving spouse files a waiver under this subsection, the deceased spouse's personal representative may administer the entire community estate.

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

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 205 (S.B. [1373](#)), Sec. 42, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 205 (S.B. [1373](#)), Sec. 43, eff. September 1, 2023.