

TEXAS ESTATES CODE

Navigation Guide

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For

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DECEDENTS' ESTATES

Probate Code

Chapter 1 General Provisions

Section 3 Definitions

Section 36B – 36F Safe Deposit Box

Section 37 Passage of Title

Section 37A Disclaimer

Estates Code

Title 1 General Provisions

Chapter 22 Definitions

Title 2 Estates of Decedents

*Subtitle D, Chapter 151 Sections 151.001 –
151.005*

*Subtitle C Chapter 101 Subchapter A
Section 101.001, 101.003, 101.051*

Subtitle C Chapter 122

Notes

Now in alpha order

Clarified by lists

Guardianship in Title 3

*Exception as to debts
now set out in 101.051*

*See who may disclaim,
Requirements for filing
NOTE: Does not defeat
FTL & may not disclaim
if heir/beneficiary in
arrears for child support*

<u>Probate Code</u>	<u>Estates Code</u>	<u>Notes</u>
<i>Section 38 (a) – (b) Persons Who Take Upon Intestacy</i>	<i>Subtitle E Chapter 201 Subchapter A Section 201.001 – 201.002</i>	
<i>Section 43 Per Capita & Per Stirpes</i>	<i>Subtitle E Chapter 201 Subchapter C</i>	<i>We lose “per stirpes”</i>
<i>Section 45 Community Estate</i>	<i>Subtitle E Chapter 201 Subchapter A Section 201.003</i>	<i>Distribution prior to 9/1/93 splits spouse/kids</i>
<i>Section 46 Joint Tenancy</i>	<i>Subtitle C Chapter 111 Subchapter A</i>	<i>Survivorship must be by agreement</i>
<i>Sections 451 – 459 Community Property with ROS</i>	<i>Subtitle C Chapter 112 Subchapters A-C</i>	<i>112.052 requirements</i>
<i>Section 453 Ownership & Management</i>	<i>Subtitle C Chapter 112 Subchapter D</i>	<i>Agreement does not affect management & control of property unless specific</i>
<i>Section 48 Proceedings to Declare Heirship</i>	<i>Subtitle E Chapter 202</i>	
<i>Sections 52-52A Affidavits of Heirship</i>	<i>Subtitle E Chapter 203</i>	<i>Note: MERP issue</i>

Probate Code

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Notes

Section 55 Effect of Judgment

*Subtitle E Chapter 202
Sections 202.201 -202.205*

Judgment is final with same appeal period as other probate judgments BUT see 202.203, heir w/o proper notice has 4 years to correct, 202.204 offers BFP protection

Section 58b Void Devises

*Subtitle F Chapter 254
Section 254.003*

Attorneys, note BFP protection

Section 71 Deposit of Will

Subtitle F Chapter 252

County Clerk to hold & Index, provide notice upon death of testator, still just \$5 deposit fee

Section 73 Period for Probate

*Subtitle F Chapter 256
Subchapter A Section 256.003*

Four year limit, BFP protection

Section 89A-89C Muniment

Subtitle F Chapter 257

See BFP protection in 257.101(b) – must have declaratory judgment in order probating will

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Notes

Section 95-107A Foreign Wills

Subtitle K

*See Sections 501.002(c),
503.001, 503.051,
503.052 & 505.052*

Sections 145A – 145C Power of Sale

*Subtitle I Chapter 401
Sections 401.002 – 401.004,
401.006*

New in 2011

*Chapter 402 Sections 402.052 &
402.053*

*BFP protection in
402.053*

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Notes

Sections 341 – 358 Court Ordered Sales

*Subtitle H Chapter 356
Subchapter F, Subchapter J
& Subchapter L*

*Four step process
See Sections
356.251 & 356.252
(Application), 356.256
(Order), 356.551 (Report
of Sale), 356.552 (Action
on Report), 356.255
(Opposition), 356.556
(Order Confirming Sale)
356.557 (Deed), and
356.558 (Delivery of
Deed)*

Chapter XII Powers of Attorney

Subtitle P

*New form in Section
752.051*

GUARDIANSHIPS

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Notes

Section 883 Incapacitated Spouse

*Title 3 Subtitle I
Chapter 1353*

*Community
Administrators*

Section 889 Sale of Property of a Minor

Subtitle I Chapter 1351

\$100K limit