

TEXAS DESCENT AND DISTRIBUTION

(THE LEGAL EFFECTS OF NOT HAVING A WILL)

PROVIDED BY
STACEY KEMP, COUNTY CLERK
COLLIN COUNTY TEXAS

MARRIED WITH CHILDREN

SEPARATE PROPERTY REAL ESTATE



ALL REALTY IS OWNED BY DECEDENT'S CHILD(REN) WHEN SURVIVING SPOUSE DIES

ALL OTHER PROPERTY



COMMUNITY PROPERTY REAL ESTATE



ONLY APPLIES IF

ALL SURVIVING CHILD(REN) AND DESCENDANTS OF DECEDENT ARE ALSO CHILD(REN) OR DESCENDANTS OF SURVIVING SPOUSE

ALL OTHER PROPERTY



COMMUNITY PROPERTY REAL ESTATE



ONLY APPLIES IF

THERE ARE CHILDREN FROM OUTSIDE THE EXSISTING MARRIAGE ON THE DATE OF DEATH OF DECEASED.

CHILDREN OF DECEASED CHILD(REN) INHERIT THEIR PARENTS SHARE SUBJECT TO ADVANCEMENTS

ALL OTHER PROPERTY



SINGLE OR WIDOWED WITH NO CHILDREN

SURVIVED BY MOTHER AND FATHER ONLY



ENTIRE ESTATE GOES TO PARENT IF NO SIBLINGS OR THEIR DESCENDANTS SURVIVE DECEDENT

SURVIVED BY ONE PARENT AND SIBLING(S)



WIDOW (ER) WITH CHILDREN

REAL ESTATE



ANY CHILDREN TAKE THEIR SHARE (SUBJECT TO ADVANCEMENTS)

ALL OTHER PROPERTY



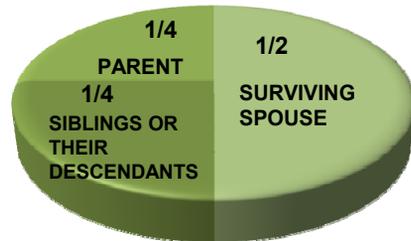
MARRIED WITH NO CHILDREN

A. SEPARATE PROPERTY

BOTH PARENTS SURVIVE



ONE PARENT SURVIVES



NO SURVIVING SIBLINGS OR SIBLINGS DESCENDANTS



NO SURVIVING PARENT



NO SURVIVING PARENTS OR SIBLINGS DESCENDANTS



B. COMMUNITY PROPERTY



FREQUENTLY ASKED QUESTIONS

| Question | Independent Administration | Dependent Administration | Guardianship Proceeding |
|---|---|--|--|
| When do I notify creditors? | Within one month after letters issued. §§146, 294(a) | Within one month after letters issued. §294(a) | Within one month after letters issued. §783(a) |
| What form must an unsecured claim take? | No particular form required. | Use statutory language supported by sworn affidavit. §301 | Use statutory language supported by sworn affidavit. §§784, 788 |
| When must a creditor present its claim? | Anytime, unless in receipt of §294(d) notice letter. | Before estate is closed; subject to §§:294(d), 298 | Before guardianship is closed. §786 |
| To who is the claim presented? | Independent Executor | Dependent Administrator or deposit with the court clerk. §308 | Guardian or deposit with the court clerk. §§786, 795 |
| When must the P.R. object to claim defects, e.g., vouchers, exhibits? | No statutory requirement to be followed. | Administrator must object within 30 days of presentment. §302 | Guardian must object within 30 days of presentment. §789 |
| How do I bar an unsecured creditor's claim? | Notify creditor before estate is closed per §§294(d), 146(a)(2) | Notify creditor before estate is closed pursuant to §294(d) | Notify creditor before estate is closed. §784(e) |
| When must unsecured creditor respond to avoid a claim's bar? | Within 120 days of receipt of notice. §146(d) | Within 4 months of receipt of notice. §298(a) | Within 120 days of receipt of notice. §784(e) |
| When do I notify secured creditors? | Within two months after letters issued. §§146, 295 | Within two months after letters issued. §295 | Within 4 months after letters issued. §784 |
| What election(s) must a secured creditor make? | Elect to be paid in due course of administration or select preferred debt & lien status. §146(b)(e) | Elect to be paid in due course of administration or select preferred debt & lien status. §306(a) | Elect to be paid in due course of administration or select preferred debt & lien status. §793(a) |
| When must a secured creditor make the election? | Within 6 months after letters issued or 4 months of §295 notice. §146(b) | Within 6 months after letters issued or 4 months of §295 notice. §306(b) | Upon presentment to the guardian. §793(a) |
| How is claim treated when election is not made? | Claim is treated as a preferred debt & lien. §146(b) | Claim is treated as a preferred debt & lien. §306(b) | Claim is treated as a preferred debt & lien. §793 |
| When must the P.R. approve/reject the claim? | No statutory time period. §146(c)(1)(2) | When 30 days of presentment. §309 | When 30 days of presentment. §796 |
| What if P.R. takes no action? | Creditor can sue whenever it elects. | Claim is deemed rejected after 30 days. §310 | Claim is deemed rejected after 30 days. §797 |

FREQUENTLY ASKED QUESTIONS CONT'D

| Question | Independent Administration | Dependent Administration | Guardianship Proceeding |
|--|--|---|---|
| When must I file suit on a rejected claim? | Anytime before the applicable S/L runs. | Within 90 days after rejection. §313 | Within 90 days after rejection. §800 |
| Must the claim be classified before payment? | Yes. Claim is classified pursuant to §§322, 146(a)(3) | Yes. Claim is classified pursuant to §322 | Not applicable |
| How will my claim be classified? | As one of eight classes. §322 | As one of eight classes. §322 | Not applicable |
| How will my claim be paid? | Executor may pay at any time subject to §§320, 321, 146(c) | Claims are paid in the following priority (1) class 1 claims; (2) family allowance §286; (3) class 2 claims; and (4) class 3 - 8 claims. §§320, 321 | Claims paid in following order (1) ward's expenses for care, maintenance and education, (2) administration expenses and (3) any other claim. §805(a)(b) |
| What are the classes? | | | |
| Class 1 | Funeral & last illness expenses not to exceed \$15,000; excess expenses become a class 8 claim. §§146(a)(3), 322 | Funeral & last illness expenses not to exceed \$15,000; excess expenses become a class 8 claim. §322 | Not applicable |
| Class 2 | Administrative expenses; preservation, safekeeping and estate management costs. §§146(a)(3), 322 | Administrative expenses; preservation, safekeeping and estate management costs. §322 | Not applicable |
| Class 3 | Any secured claim to be paid in the due course of administration, including tax liens and second mortgages. §§146(a)(3), 322 | Any secured claim to be paid in the due course of administration, including tax liens and second mortgages. §322 | Not applicable |
| Class 4 | A child support judgment. §§146(a)(3), 322 | A child support judgment. §322 | Not applicable |
| Class 5 | State taxes, penalties & interest thereon. §§146(a)(3), 322 | State taxes, penalties & interest thereon. §322 | Not applicable |
| Class 6 | T.D.C. costs of confinement. §§146(a)(3), 322 | T.D.C. costs of confinement. §322 | Not applicable |
| Class 7 | State reimbursement for medical costs. §§146(a)(3), 322 | State reimbursement for medical costs. §322 | Not applicable |
| Class 8 | All other claims, e.g., unsecured creditors. §§146(a)(3), 322 | All other claims, e.g., unsecured creditors. §322 | Not applicable |

**WITH SPECIAL THANKS TO
JUDGE RUSSELL AUSTIN
HARRIS COUNTY TEXAS**