

BILL ANALYSIS

Senate Research Center
83R2844 KFF-D

H.B. 789
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Jurisprudence
4/17/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, if an individual dies without leaving a homestead to the surviving spouse or minor children, the survivors may pursue a claim against the decedent's estate called an allowance in lieu of homestead or an allowance in lieu of other exempt property. At present, the maximum amount that can be claimed in lieu of a homestead is only \$15,000. Similarly, the maximum amount of the allowance in lieu of other exempt property is only \$5,000. Interested parties assert that, because these amounts have not been increased in nearly 20 years, at present value, the allowances are largely insignificant. In addition, because of the economic downturn, these parties assert that more consumers are opting to rent rather than purchase their homes and that this allowance will become relevant to a larger population.

H.B. 789 seeks to provide meaningful allowances in lieu of a homestead and in lieu of other exempt property by increasing the amounts to a level of economic significance that essentially equates to the value of the allowances provided in the original law.

H.B. 789 amends current law relating to the allowance in lieu of exempt property in the administration of a decedent's estate.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE 1. CHANGES TO TEXAS PROBATE CODE

SECTION 1.01. Amends Chapter 273, Texas Probate Code, to require that the allowance in lieu of a homestead in no case exceed \$45,000, rather than \$15,000, and the allowance for other exempted property in no case exceed \$30,000, rather than \$5,000, exclusive of the allowance for the support of the surviving spouse, minor children, and adult incapacitated children which is hereinafter provided for.

SECTION 1.02. Provides that the changes in law made by this article to Section 273, Texas Probate Code, apply only to the estate of a decedent who dies on or after the effective date of this Act. Provides that the estate of a decedent who dies before the effective date of this Act is governed by the law in effect on the date of the decedent's death, and the former law is continued in effect for that purpose.

ARTICLE 2. CHANGES TO ESTATES CODE

SECTION 2.01. Amends Section 353.053(b), Estates Code, as effective January 1, 2014, to prohibit the allowance in lieu of a homestead from exceeding \$45,000, rather than \$15,000, and the allowance in lieu of other exempt property from exceeding \$30,000, rather than \$5,000, excluding the family allowance for the support of the surviving spouse, minor children, and adult incapacitated children provided by Subchapter C (Family Allowance).

SECTION 2.02. Repealer: Section 273 (Allowance in Lieu of Exempt Property), Texas Probate Code, as amended by Article 1 of this Act.

SECTION 2.03. Effective date, Article 2: January 1, 2014.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. Effective date, except as otherwise provided by this Act: September 1, 2013.