

PROBATE CODE
CHAPTER XI-A. PROVISIONS APPLICABLE TO CERTAIN NONTESTAMENTARY
TRANSFERS

Sec. 471. DEFINITIONS. In this chapter:

(1) "Disposition or appointment of property" includes a transfer of property or provision of any other benefit to a beneficiary under a trust instrument.

(2) "Divorced individual" means an individual whose marriage has been dissolved, regardless of whether by divorce or annulment.

(3) "Revocable," with respect to a disposition, appointment, provision, or nomination, means a disposition to, appointment of, provision in favor of, or nomination of an individual's spouse in a trust instrument executed by the individual before the dissolution of the individual's marriage to the spouse that the individual was solely empowered by law or by the trust instrument to revoke, regardless of whether the individual had the capacity to exercise the power at that time.

Added by Acts 2005, 79th Leg., ch. 551, Sec. 8, eff. Sept. 1, 2005.

Sec. 472. REVOCATION OF CERTAIN NONTESTAMENTARY TRANSFERS ON DISSOLUTION OF MARRIAGE. (a) Except as otherwise provided by a court order, the express terms of a trust instrument executed by a divorced individual before the individual's marriage was dissolved, or an express provision of a contract relating to the division of the marital estate entered into between a divorced individual and the individual's former spouse before, during, or after the marriage, the dissolution of the marriage revokes the following:

(1) a revocable disposition or appointment of property made by a divorced individual to the individual's former spouse in a trust instrument executed before the dissolution of the marriage;

(2) a provision in a trust instrument executed by a divorced individual before the dissolution of the marriage that confers a general or special power of appointment on the individual's former spouse; and

(3) a nomination in a trust instrument executed by a divorced individual before the dissolution of the marriage that nominates the individual's former spouse to serve in a fiduciary or representative capacity, including as a personal representative, executor, trustee, conservator, agent, or guardian.

(b) After the dissolution of a marriage, an interest granted in a provision of a trust instrument that is revoked under Subsection (a)(1) or (2) of this section passes as if the former spouse of the divorced individual who executed the trust instrument disclaimed the interest granted in the provision, and an interest granted in a provision of a trust instrument that is revoked under Subsection (a)(3) of this section passes as if the former spouse died immediately before the dissolution of the marriage.

Added by Acts 2005, 79th Leg., ch. 551, Sec. 8, eff. Sept. 1, 2005.

Sec. 473. LIABILITY FOR CERTAIN PAYMENTS, BENEFITS, AND PROPERTY. (a) A bona fide purchaser of property from a divorced individual's former spouse or a person who receives from a divorced individual's former spouse a payment, benefit, or property in partial or full satisfaction of an enforceable obligation:

(1) is not required by this chapter to return the payment, benefit, or property; and

(2) is not liable under this chapter for the amount of the payment or the value of the property or benefit.

(b) A divorced individual's former spouse who, not for value, receives a payment, benefit, or property to which the former spouse is not entitled as a result of Section 472(a) of this code:

(1) shall return the payment, benefit, or property to the person who is otherwise entitled to the payment, benefit, or property as provided by this chapter; or

(2) is personally liable to the person described by Subdivision (1) of this subsection for the amount of the payment or the value of the benefit or property received.

Added by Acts 2005, 79th Leg., ch. 551, Sec. 8, eff. Sept. 1, 2005.