

PROBATE CODE

CHAPTER II. DESCENT AND DISTRIBUTION

Sec. 37. PASSAGE OF TITLE UPON INTESTACY AND UNDER A WILL. When a person dies, leaving a lawful will, all of his estate devised or bequeathed by such will, and all powers of appointment granted in such will, shall vest immediately in the devisees or legatees of such estate and the donees of such powers; and all the estate of such person, not devised or bequeathed, shall vest immediately in his heirs at law; subject, however, to the payment of the debts of the testator or intestate, except such as is exempted by law, and subject to the payment of court-ordered child support payments that are delinquent on the date of the person's death; and whenever a person dies intestate, all of his estate shall vest immediately in his heirs at law, but with the exception aforesaid shall still be liable and subject in their hands to the payment of the debts of the intestate and the delinquent child support payments; but upon the issuance of letters testamentary or of administration upon any such estate, the executor or administrator shall have the right to possession of the estate as it existed at the death of the testator or intestate, with the exception aforesaid; and he shall recover possession of and hold such estate in trust to be disposed of in accordance with the law. Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956. Amended by Acts 1969, 61st Leg., p. 1703, ch. 556, Sec. 2, eff. June 10, 1969; Acts 1981, 67th Leg., p. 2537, ch. 674, Sec. 3, eff. Sept. 1, 1981.

Sec. 37A. MEANS OF EVIDENCING DISCLAIMER OR RENUNCIATION OF PROPERTY OR INTEREST RECEIVABLE FROM A DECEDENT. Any person, or the guardian of an incapacitated person, the personal representative of a deceased person, or the guardian ad litem of an unborn or unascertained person, with prior court approval of the court having, or which would have, jurisdiction over such guardian, personal representative, or guardian ad litem, or any independent executor of a deceased person, without prior court approval, who may be entitled to receive any property as a beneficiary and who intends to effect disclaimer irrevocably on or after September 1, 1977, of the whole or any part of such property shall evidence same as herein provided. A disclaimer evidenced as provided herein shall be effective as of the death of decedent and shall relate back for all purposes to the death of the decedent and is not subject to the claims of any creditor of the disclaimant. Unless the decedent's will provides otherwise, the property subject to the disclaimer shall pass as if the person disclaiming or on whose behalf a disclaimer is made had predeceased the decedent and a future interest that would otherwise take effect in possession or enjoyment after the termination of the estate or interest that is disclaimed takes effect as if the disclaiming beneficiary had predeceased the decedent. Failure to comply with the provisions hereof shall render such disclaimer ineffective except as an assignment of such property to those who would have received same had the person attempting the disclaimer died prior to the decedent. The term "property" as used in this section shall include all legal and equitable interests, powers, and property, whether present or future, whether vested or contingent, and whether beneficial or burdensome, in whole or in part. The term "disclaimer" as used in this section shall include "renunciation." In this section "beneficiary" includes a person who would have been entitled, if the person had not made a disclaimer, to receive property as a result of the death of another person by inheritance, under a will, by an agreement between spouses for community property with a right of survivorship, by a joint tenancy with a right of survivorship, or by any other survivorship agreement, account, or interest in which the interest of the decedent passes to a surviving beneficiary, by an insurance, annuity, endowment, employment, deferred compensation, or other contract or arrangement, or under a pension, profit sharing, thrift, stock bonus, life insurance, survivor income, incentive, or other plan or program providing retirement, welfare, or fringe benefits with respect to an employee or a self-employed individual. Nothing in this section shall be construed to preclude a subsequent disclaimer by any person who shall be entitled to property as a result of a disclaimer. The following shall apply to such disclaimers:

(a) Written Memorandum of Disclaimer and Filing Thereof. In the case of property receivable by a beneficiary, the disclaimer shall be evidenced by a written memorandum, acknowledged before a notary public or other person authorized to take acknowledgements

of conveyances of real estate. Unless the beneficiary is a charitable organization or governmental agency of the state, a written memorandum of disclaimer disclaiming a present interest shall be filed not later than nine months after the death of the decedent and a written memorandum of disclaimer disclaiming a future interest may be filed not later than nine months after the event determining that the taker of the property or interest is finally ascertained and his interest is indefeasibly vested. If the beneficiary is a charitable organization or a governmental agency of the state, a written memorandum of disclaimer disclaiming a present or future interest shall be filed not later than nine months after the beneficiary receives the notice required by Section 128A of this code. The written memorandum of disclaimer shall be filed in the probate court in which the decedent's will has been probated or in which proceedings have been commenced for the administration of the decedent's estate or which has before it an application for either of the same; provided, however, if the administration of the decedent's estate is closed, or after the expiration of one year following the date of the issuance of letters testamentary in an independent administration, or if there has been no will of the decedent probated or filed for probate, or if no administration of the decedent's estate has been commenced, or if no application for administration of the decedent's estate has been filed, the written memorandum of disclaimer shall be filed with the county clerk of the county of the decedent's residence, or, if the decedent is not a resident of this state but real property or an interest therein located in this state is disclaimed, a written memorandum of disclaimer shall be filed with the county clerk of the county in which such real property or interest therein is located, and recorded by such county clerk in the deed records of that county.

(b) Notice of Disclaimer. Unless the beneficiary is a charitable organization or governmental agency of the state, copies of any written memorandum of disclaimer shall be delivered in person to, or shall be mailed by registered or certified mail to and received by, the legal representative of the transferor of the interest or the holder of legal title to the property to which the disclaimer relates not later than nine months after the death of the decedent or, if the interest is a future interest, not later than nine months after the date the person who will receive the property or interest is finally ascertained and the person's interest is indefeasibly vested. If the beneficiary is a charitable organization or government agency of the state, the notices required by this section shall be filed not later than nine months after the beneficiary receives the notice required by Section 128A of this code.

(c) Power to Provide for Disclaimer. Nothing herein shall prevent a person from providing in a will, insurance policy, employee benefit agreement, or other instrument for the making of disclaimers by a beneficiary of an interest receivable under that instrument and for the disposition of disclaimed property in a manner different from the provisions hereof.

(d) Irrevocability of Disclaimer. Any disclaimer filed and served under this section shall be irrevocable.

(e) Partial Disclaimer. Any person who may be entitled to receive any property as a beneficiary may disclaim such property in whole or in part, including but not limited to specific powers of invasion, powers of appointment, and fee estate in favor of life estates; and a partial disclaimer or renunciation, in accordance with the provisions of this section, shall be effective whether the property so renounced or disclaimed constitutes a portion of a single, aggregate gift or constitutes part or all of a separate, independent gift; provided, however, that a partial disclaimer shall be effective only with respect to property expressly described or referred to by category in such disclaimer; and provided further, that a partial disclaimer of property which is subject to a burdensome interest created by the decedent's will shall not be effective unless such property constitutes a gift which is separate and distinct from undisclaimed gifts.

(f) Partial Disclaimer by Spouse. Without limiting Subsection (e) of this section, a disclaimer by the decedent's surviving spouse of a transfer by the decedent is not a disclaimer by the surviving spouse of all or any part of any other transfer from the decedent to or for the benefit of the surviving spouse, regardless of whether the property or interest that would have

passed under the disclaimed transfer passes because of the disclaimer to or for the benefit of the surviving spouse by the other transfer.

(g) Disclaimer After Acceptance. No disclaimer shall be effective after the acceptance of the property by the beneficiary. For the purpose of this section, acceptance shall occur only if the person making such disclaimer has previously taken possession or exercised dominion and control of such property in the capacity of beneficiary.

(h) Interest in Trust Property. A beneficiary who accepts an interest in a trust is not considered to have a direct or indirect interest in trust property that relates to a licensed or permitted business and over which the beneficiary exercises no control. Direct or indirect beneficial ownership of not more than five percent of any class of equity securities that is registered under the Securities Exchange Act of 1934 shall not be deemed to be an ownership interest in the business of the issuer of such securities within the meaning of any statute, pursuant thereto.

Added by Acts 1971, 62nd Leg., p. 2954, ch. 979, Sec. 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1918, ch. 769, Sec. 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1741, ch. 713, Sec. 4, eff. Aug. 27, 1979; Acts 1987, 70th Leg., ch. 467, Sec. 2, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 895, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 846, Sec. 1, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 1039, Sec. 5, eff. Sept. 1, 1995.

Sec. 37B. ASSIGNMENT OF PROPERTY RECEIVED FROM A DECEDENT. (a) A person entitled to receive property or an interest in property from a decedent under a will, by inheritance, or as a beneficiary under a life insurance contract, and who does not disclaim the property under Section 37A of this code, may assign the property or interest in property to any person.

(b) The assignment may, at the request of the assignor, be filed as provided for the filing of a disclaimer under Section 37A(a) of this code. The filing requires the service of notice under Section 37A(b) of this code.

(c) Failure to comply with the provisions of Section 37A of this code does not affect an assignment under this section.

(d) An assignment under this section is a gift to the assignee and is not a disclaimer or renunciation under Section 37A of this code.

(e) An assignment that would defeat a spendthrift provision imposed in a trust may not be made under this section.

Added by Acts 1985, 69th Leg., ch. 880, Sec. 1, eff. Sept. 1, 1985.

Sec. 37C. SATISFACTION OF DEVISE. (a) Property given to a person by a testator during the testator's lifetime is considered a satisfaction, either wholly or partly, of a devise to the person if:

(1) the testator's will provides for deduction of the lifetime gift;

(2) the testator declares in a contemporaneous writing that the lifetime gift is to be deducted from or is in satisfaction of the devise; or

(3) the devisee acknowledges in writing that the lifetime gift is in satisfaction of the devise.

(b) Property given in partial satisfaction of a devise shall be valued as of the earlier of the date on which the devisee acquires possession of or enjoys the property or the date on which the testator dies.

Added by Acts 2003, 78th Leg., ch. 1060, Sec. 7, eff. Sept. 1, 2003.

Sec. 38. PERSONS WHO TAKE UPON INTESTACY. (a) Intestate Leaving No Husband or Wife. Where any person, having title to any estate, real, personal or mixed, shall die intestate, leaving no husband or wife, it shall descend and pass in parcenary to his kindred, male and female, in the following course:

1. To his children and their descendants.

2. If there be no children nor their descendants, then to his father and mother, in equal portions. But if only the father or mother survive the intestate, then his estate shall be divided into two equal portions, one of which shall pass to such survivor, and the other half shall pass to the brothers and sisters of the deceased, and to their descendants; but if there be none such, then the whole estate shall be inherited by the surviving father or mother.

3. If there be neither father nor mother, then the whole of such estate shall pass to the brothers and sisters of the intestate, and to their descendants.

4. If there be none of the kindred aforesaid, then the inheritance shall be divided into two moieties, one of which shall go to the paternal and the other to the maternal kindred, in the following course: To the grandfather and grandmother in equal portions, but if only one of these be living, then the estate shall be divided into two equal parts, one of which shall go to such survivor, and the other shall go to the descendant or descendants of such deceased grandfather or grandmother. If there be no such descendants, then the whole estate shall be inherited by the surviving grandfather or grandmother. If there be no surviving grandfather or grandmother, then the whole of such estate shall go to their descendants, and so on without end, passing in like manner to the nearest lineal ancestors and their descendants.

(b) Intestate Leaving Husband or Wife. Where any person having title to any estate, real, personal or mixed, other than a community estate, shall die intestate as to such estate, and shall leave a surviving husband or wife, such estate of such intestate shall descend and pass as follows:

1. If the deceased have a child or children, or their descendants, the surviving husband or wife shall take one-third of the personal estate, and the balance of such personal estate shall go to the child or children of the deceased and their descendants. The surviving husband or wife shall also be entitled to an estate for life, in one-third of the land of the intestate, with remainder to the child or children of the intestate and their descendants.

2. If the deceased have no child or children, or their descendants, then the surviving husband or wife shall be entitled to all the personal estate, and to one-half of the lands of the intestate, without remainder to any person, and the other half shall pass and be inherited according to the rules of descent and distribution; provided, however, that if the deceased has neither surviving father nor mother nor surviving brothers or sisters, or their descendants, then the surviving husband or wife shall be entitled to the whole of the estate of such intestate.

Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956.

Sec. 39. NO DISTINCTION BECAUSE OF PROPERTY'S SOURCE. There shall be no distinction in regulating the descent and distribution of the estate of a person dying intestate between property which may have been derived by gift, devise or descent from the father, and that which may have been derived by gift, devise or descent from the mother; and all the estate to which such intestate may have had title at the time of death shall descend and vest in the heirs of such person in the same manner as if he had been the original purchaser thereof.

Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956.

Sec. 40. INHERITANCE BY AND FROM AN ADOPTED CHILD. For purposes of inheritance under the laws of descent and distribution, an adopted child shall be regarded as the child of the parent or parents by adoption, such adopted child and its descendants inheriting from and through the parent or parents by adoption and their kin the same as if such child were the natural child of such parent or parents by adoption, and such parent or parents by adoption and their kin inheriting from and through such adopted child the same as if such child were the natural child of such parent or parents by adoption. The natural parent or parents of such child and their kin shall not inherit from or through said child, but, except as provided by Section 162.507(c), Family Code, the child shall inherit from and through its natural parent or parents. Nothing herein shall prevent any parent by adoption from disposing of his property by will according to law. The presence of this Section specifically relating to the rights of adopted children shall in no way diminish the rights of such children, under the laws of descent and distribution or otherwise, which they acquire by virtue of their inclusion in the definition of "child" which is contained in this Code.

Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956. Amended by Acts 1989, 71st Leg., ch. 375, Sec. 34, eff. Sept. 1, 1989.

Amended by Acts 2005, 79th Leg., ch. 169, Sec. 2, eff. Sept. 1, 2005.

Sec. 41. MATTERS AFFECTING AND NOT AFFECTING THE RIGHT TO INHERIT. (a) Persons Not in Being. No right of inheritance shall accrue to any persons other than to children or lineal descendants of the intestate, unless they are in being and capable in law to take as heirs at the time of the death of the intestate.

(b) Heirs of Whole and Half Blood. In situations where the

inheritance passes to the collateral kindred of the intestate, if part of such collateral be of the whole blood, and the other part be of the half blood only, of the intestate, each of those of half blood shall inherit only half so much as each of those of the whole blood; but if all be of the half blood, they shall have whole portions.

(c) Alienage. No person is disqualified to take as an heir because he or a person through whom he claims is or has been an alien.

(d) Convicted Persons and Suicides. No conviction shall work corruption of blood or forfeiture of estate, except in the case of a beneficiary in a life insurance policy or contract who is convicted and sentenced as a principal or accomplice in wilfully bringing about the death of the insured, in which case the proceeds of such insurance policy or contract shall be paid as provided in the Insurance Code of this State, as same now exists or is hereafter amended; nor shall there be any forfeiture by reason of death by casualty; and the estates of those who destroy their own lives shall descend or vest as in the case of natural death.

Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956. Amended by Acts 1969, 61st Leg., p. 1922, ch. 641, Sec. 2, eff. June 12, 1969.

Sec. 42. INHERITANCE RIGHTS OF CHILDREN. (a) Maternal Inheritance. For the purpose of inheritance, a child is the child of his biological or adopted mother, so that he and his issue shall inherit from his mother and from his maternal kindred, both descendants, ascendants, and collaterals in all degrees, and they may inherit from him and his issue.

(b) Paternal Inheritance. (1) For the purpose of inheritance, a child is the child of his biological father if the child is born under circumstances described by Section 160.201, Family Code, is adjudicated to be the child of the father by court decree as provided by Chapter 160, Family Code, was adopted by his father, or if the father executed an acknowledgment of paternity as provided by Subchapter D, Chapter 160, Family Code, or a like statement properly executed in another jurisdiction, so that he and his issue shall inherit from his father and from his paternal kindred, both descendants, ascendants, and collaterals in all degrees, and they may inherit from him and his issue. A person claiming to be a biological child of the decedent, who is not otherwise presumed to be a child of the decedent, or claiming inheritance through a biological child of the decedent, who is not otherwise presumed to be a child of the decedent, may petition the probate court for a determination of right of inheritance. If the court finds by clear and convincing evidence that the purported father was the biological father of the child, the child is treated as any other child of the decedent for the purpose of inheritance and he and his issue may inherit from his paternal kindred, both descendants, ascendants, and collaterals in all degrees, and they may inherit from him and his issue. This section does not permit inheritance by a purported father of a child, whether recognized or not, if the purported father's parental rights have been terminated.

(2) A person who purchases for valuable consideration any interest in real or personal property of the heirs of a decedent, who in good faith relies on the declarations in an affidavit of heirship that does not include a child who at the time of the sale or contract of sale of the property is not a presumed child of the decedent and has not under a final court decree or judgment been found to be entitled to treatment under this subsection as a child of the decedent, and who is without knowledge of the claim of that child, acquires good title to the interest that the person would have received, as purchaser, in the absence of any claim of the child not included in the affidavit. This subdivision does not affect the liability, if any, of the heirs for the proceeds of any sale described by this subdivision to the child who was not included in the affidavit of heirship.

(c) Homestead Rights, Exempt Property, and Family Allowances. A child as provided by Subsections (a) and (b) of this section is a child of his mother, and a child of his father, for the purpose of determining homestead rights, distribution of exempt property, and the making of family allowances.

(d) Marriages Void and Voidable. The issue of marriages declared void or voided by annulment shall be treated in the same manner as issue of a valid marriage.

Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956. Amended by

Acts 1977, 65th Leg., p. 762, ch. 290, Sec. 1, eff. May 28, 1977; Acts 1979, 66th Leg., p. 40, ch. 24, Sec. 25, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1743, ch. 713, Sec. 5, eff. Aug. 27, 1979; Acts 1987, 70th Leg., ch. 464, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 375, Sec. 35, eff. Sept. 1, 1989; Acts 1997, 75th Leg., ch. 165, Sec. 7.54, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1302, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 821, Sec. 2.18, eff. June 14, 2001.

Sec. 43. DETERMINATION OF PER CAPITA AND PER STIRPES DISTRIBUTION. When the intestate's children, descendants, brothers, sisters, uncles, aunts, or any other relatives of the deceased standing in the first or same degree alone come into the distribution upon intestacy, they shall take per capita, namely: by persons; and, when a part of them being dead and a part living, the descendants of those dead shall have right to distribution upon intestacy, such descendants shall inherit only such portion of said property as the parent through whom they inherit would be entitled to if alive.

Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956. Amended by Acts 1991, 72nd Leg., ch. 895, Sec. 3, eff. Sept. 1, 1991.

Sec. 44. ADVANCEMENTS. (a) If a decedent dies intestate as to all or a portion of the decedent's estate, property the decedent gave during the decedent's lifetime to a person who, on the date of the decedent's death, is the decedent's heir, or property received by a decedent's heir under a nontestamentary transfer under Chapter XI of this code is an advancement against the heir's intestate share only if:

(1) the decedent declared in a contemporaneous writing or the heir acknowledged in writing that the gift or nontestamentary transfer is an advancement; or

(2) the decedent's contemporaneous writing or the heir's written acknowledgment otherwise indicates that the gift or nontestamentary transfer is to be taken into account in computing the division and distribution of the decedent's intestate estate.

(b) For purposes of Subsection (a) of this section, property that is advanced is valued at the time the heir came into possession or enjoyment of the property or at the time of the decedent's death, whichever occurs first.

(c) If the recipient of the property fails to survive the decedent, the property is not taken into account in computing the division and distribution of the decedent's intestate estate, unless the decedent's contemporaneous writing provides otherwise.

Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956. Amended by Acts 1993, 73rd Leg., ch. 846, Sec. 4, eff. Sept. 1, 1993.

Sec. 45. COMMUNITY ESTATE. (a) On the intestate death of one of the spouses to a marriage, the community property estate of the deceased spouse passes to the surviving spouse if:

(1) no child or other descendant of the deceased spouse survives the deceased spouse; or

(2) all surviving children and descendants of the deceased spouse are also children or descendants of the surviving spouse.

(b) On the intestate death of one of the spouses to a marriage, if a child or other descendant of the deceased spouse survives the deceased spouse and the child or descendant is not a child or descendant of the surviving spouse, one-half of the community estate is retained by the surviving spouse and the other one-half passes to the children or descendants of the deceased spouse. The descendants shall inherit only such portion of said property to which they would be entitled under Section 43 of this code. In every case, the community estate passes charged with the debts against it.

Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956. Amended by Acts 1991, 72nd Leg., ch. 895, Sec. 4, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 846, Sec. 33, eff. Sept. 1, 1993.

Sec. 46. JOINT TENANCIES. (a) If two or more persons hold an interest in property jointly, and one joint owner dies before severance, the interest of the decedent in the joint estate shall not survive to the remaining joint owner or owners but shall pass by will or intestacy from the decedent as if the decedent's interest had been severed. The joint owners may agree in writing, however, that the interest of any joint owner who dies shall survive to the surviving joint owner or owners, but no such agreement shall be inferred from the mere fact that the property is held in joint ownership.

(b) Subsection (a) does not apply to agreements between

spouses regarding their community property. Agreements between spouses regarding rights of survivorship in community property are governed by Part 3 of Chapter XI of this code.

Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956. Amended by Acts 1961, 57th Leg., p. 233, ch. 120, Sec. 1, eff. May 15, 1961; Acts 1969, 61st Leg., p. 1922, ch. 641, Sec. 3, eff. June 12, 1969; Acts 1981, 67th Leg., p. 895, ch. 319, Sec. 1, eff. Sept. 1, 1981; Acts 1987, 70th Leg., ch. 678, Sec. 2; Acts 1989, 71st Leg., ch. 655, Sec. 1, eff. Aug. 28, 1989.

Sec. 47. REQUIREMENT OF SURVIVAL BY 120 HOURS. (a) Survival of Heirs. A person who fails to survive the decedent by 120 hours is deemed to have predeceased the decedent for purposes of homestead allowance, exempt property, and intestate succession, and the decedent's heirs are determined accordingly, except as otherwise provided in this section. If the time of death of the decedent or of the person who would otherwise be an heir, or the times of death of both, cannot be determined, and it cannot be established that the person who would otherwise be an heir has survived the decedent by 120 hours, it is deemed that the person failed to survive for the required period. This subsection does not apply where its application would result in the escheat of an intestate estate.

(b) Disposal of Community Property. When a husband and wife have died, leaving community property, and neither the husband nor wife survived the other by 120 hours, one-half of all community property shall be distributed as if the husband had survived, and the other one-half thereof shall be distributed as if the wife had survived. The provisions of this subsection apply to proceeds of life or accident insurance which are community property and become payable to the estate of either the husband or the wife, as well as to other kinds of community property.

(c) Survival of Devisees or Beneficiaries. A devisee who does not survive the testator by 120 hours is treated as if he predeceased the testator, unless the will of the decedent contains some language dealing explicitly with simultaneous death or deaths in a common disaster, or requiring that the devisee survive the testator or survive the testator for a stated period in order to take under the will. If property is so disposed of that the right of a beneficiary to succeed to any interest therein is conditional upon his surviving another person, the beneficiary shall be deemed not to have survived unless he or she survives the person by 120 hours. However, if any interest in property is given alternatively to one of two or more beneficiaries, with the right of each to take being dependent upon his surviving the other or others, and all shall die within a period of less than 120 hours, the property shall be divided into as many equal portions as there are beneficiaries, and those portions shall be distributed respectively to those who would have taken in the event that each beneficiary had survived.

(d) Joint Owners. If any real or personal property, including community property with a right of survivorship, shall be so owned that one of two joint owners is entitled to the whole on the death of the other, and neither survives the other by 120 hours, these assets shall be distributed one-half as if one joint owner had survived and the other one-half as if the other joint owner had survived. If there are more than two joint owners and all have died within a period of less than 120 hours, these assets shall be divided into as many equal portions as there are joint owners and these portions shall be distributed respectively to those who would have taken in the event that each joint owner survived.

(e) Insured and Beneficiary. When the insured and a beneficiary in a policy of life or accident insurance have died within a period of less than 120 hours, the insured shall be deemed to have survived the beneficiary for the purpose of determining the rights under the policy of the beneficiary or beneficiaries as such. The provisions of this subsection shall not prevent the application of subsection (b) above to the proceeds of life or accident insurance which are community property.

(f) Instruments Providing Different Disposition. When provision has been made in the case of wills, living trusts, deeds, or contracts of insurance, or any other situation, for disposition of property different from the provisions of this Section, this Section shall not apply.

Acts 1955, 54th Leg., p. 88, ch. 55, eff. Jan. 1, 1956. Amended by Acts 1965, 59th Leg., p. 279, ch. 119, Sec. 1, eff. Aug. 30, 1965; Acts 1979, 66th Leg., p. 1743, ch. 713, Sec. 6, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 846, Sec. 5, eff. Sept. 1, 1993.