

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY
SUBTITLE C. PASSAGE OF TITLE AND DISTRIBUTION OF DECEDENTS'
PROPERTY IN GENERAL

CHAPTER 102. PROBATE ASSETS: DECEDENT'S HOMESTEAD

Sec. 102.001. TREATMENT OF CERTAIN CHILDREN. For purposes of determining homestead rights, a child is a child of his or her mother and a child of his or her father, as provided by Sections [201.051](#), [201.052](#), and [201.053](#).

Added by Acts 2009, 81st Leg., R.S., Ch. [680](#), Sec. 1, eff. January 1, 2014.

Sec. 102.002. HOMESTEAD RIGHTS NOT AFFECTED BY CHARACTER OF THE HOMESTEAD. The homestead rights and the respective interests of the surviving spouse and children of a decedent are the same whether the homestead was the decedent's separate property or was community property between the surviving spouse and the decedent.

Added by Acts 2009, 81st Leg., R.S., Ch. [680](#), Sec. 1, eff. January 1, 2014.

Sec. 102.003. PASSAGE OF HOMESTEAD. The homestead of a decedent who dies leaving a surviving spouse descends and vests on the decedent's death in the same manner as other real property of the decedent and is governed by the same laws of descent and distribution.

Added by Acts 2009, 81st Leg., R.S., Ch. [680](#), Sec. 1, eff. January 1, 2014.

Sec. 102.004. LIABILITY OF HOMESTEAD FOR DEBTS. If the decedent was survived by a spouse or minor child, the homestead is not liable for the payment of any of the debts of the estate, other than:

- (1) purchase money for the homestead;
- (2) taxes due on the homestead;
- (3) work and material used in constructing improvements on the homestead if the requirements of Section

50(a)(5), Article XVI, Texas Constitution, are met;

(4) an owelty of partition imposed against the entirety of the property by a court order or written agreement of the parties to the partition, including a debt of one spouse in favor of the other spouse resulting from a division or an award of a family homestead in a divorce proceeding;

(5) the refinance of a lien against the homestead, including a federal tax lien resulting from the tax debt of both spouses, if the homestead is a family homestead, or from the tax debt of the decedent;

(6) an extension of credit on the homestead if the requirements of Section 50(a)(6), Article XVI, Texas Constitution, are met; or

(7) a reverse mortgage.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 8, eff. January 1, 2014.

Sec. 102.005. PROHIBITIONS ON PARTITION OF HOMESTEAD. The homestead may not be partitioned among the decedent's heirs:

(1) during the lifetime of the surviving spouse for as long as the surviving spouse elects to use or occupy the property as a homestead; or

(2) during the period the guardian of the decedent's minor children is permitted to use and occupy the homestead under a court order.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 102.006. CIRCUMSTANCES UNDER WHICH PARTITION OF HOMESTEAD IS AUTHORIZED. The homestead may be partitioned among the respective owners of the property in the same manner as other property held in common if:

(1) the surviving spouse dies, sells his or her interest in the homestead, or elects to no longer use or occupy the

property as a homestead; or

(2) the court no longer permits the guardian of the minor children to use and occupy the property as a homestead.

Added by Acts 2009, 81st Leg., R.S., Ch. [680](#), Sec. 1, eff. January 1, 2014.