

CHAPTER 709

H.B. No. 1193

An Act relating to the sale of estate property to the personal representative of the estate.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 352, Texas Probate Code, is amended to read as follows:

Sec. 352. REPRESENTATIVE PURCHASING [NOT TO PURCHASE] PROPERTY OF THE ESTATE. (a) *Except as provided by Subsection (b) of this section, the [The] personal representative of an estate shall not become the purchaser, directly or indirectly, of any property of the estate sold by him, or by any co-representative if one be acting.*

(b) *A personal representative of an estate may purchase property from the estate if the will, duly admitted to probate, appointing the personal representative expressly authorizes the sale.*

(c) *A personal representative of a decedent or of a ward who has been adjudged incompetent may comply with the terms of a written executory contract signed by the decedent or by the ward before the ward became incompetent, including a contract for deed, earnest money contract, buy/sell agreement, or stock purchase or redemption agreement.*

(d) *If a [any such] purchase is made in violation of this section, any person interested in the estate may file a written complaint with the court in which the proceedings are pending, and upon service of citation upon the representative, after hearing and proof, such sale shall be by the court declared void, and shall be set aside by the court and the property ordered to be reconveyed to the estate. All costs of the sale, protest, and suit, if found necessary, shall be adjudged against the representative.*

SECTION 2. The change in Section 352, Texas Probate Code, made by this Act applies only to the purchase of property from an estate that is the subject of a will filed for probate on or after the effective date of this Act. The purchase of property from an estate that is the subject of a will filed for probate before the effective date of this Act is covered by the law in effect when the will was filed, and the former law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 21, 1985, by a non-record vote; passed by the Senate on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 14, 1985

Effective: August 26, 1985