

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE E. INTESTATE SUCCESSION

CHAPTER 203. NONJUDICIAL EVIDENCE OF HEIRSHIP

Sec. 203.001. RECORDED STATEMENT OF FACTS AS PRIMA FACIE EVIDENCE OF HEIRSHIP. (a) A court shall receive in a proceeding to declare heirship or a suit involving title to property a statement of facts concerning the family history, genealogy, marital status, or the identity of the heirs of a decedent as prima facie evidence of the facts contained in the statement if:

(1) the statement is contained in:

(A) an affidavit or other instrument legally executed and acknowledged or sworn to before, and certified by, an officer authorized to take acknowledgments or oaths, as applicable; or

(B) a judgment of a court of record; and

(2) the affidavit or instrument containing the statement has been of record for five years or more in the deed records of a county in this state in which the property is located at the time the suit involving title to property is commenced, or in the deed records of a county in this state in which the decedent was domiciled or had a fixed place of residence at the time of the decedent's death.

(b) If there is an error in a statement of facts in a recorded affidavit or instrument described by Subsection (a), anyone interested in a proceeding in which the affidavit or instrument is offered in evidence may prove the true facts.

(c) An affidavit of facts concerning the identity of a decedent's heirs as to an interest in real property that is filed in a proceeding or suit described by Subsection (a) may be in the form prescribed by Section [203.002](#).

(d) An affidavit of facts concerning the identity of a decedent's heirs does not affect the rights of an omitted heir or creditor of the decedent as otherwise provided by law. This section is cumulative of all other statutes on the same subject and may not be construed as abrogating any right to present evidence or

rely on an affidavit of facts conferred by any other statute or rule.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 203.002. FORM OF AFFIDAVIT CONCERNING IDENTITY OF HEIRS. An affidavit of facts concerning the identity of a decedent's heirs may be in substantially the following form:

AFFIDAVIT OF FACTS CONCERNING THE IDENTITY OF HEIRS

Before me, the undersigned authority, on this day personally appeared _____ ("Affiant") (insert name of affiant) who, being first duly sworn, upon his/her oath states:

1. My name is _____ (insert name of affiant), and I live at _____ (insert address of affiant's residence). I am personally familiar with the family and marital history of _____ ("Decedent") (insert name of decedent), and I have personal knowledge of the facts stated in this affidavit.

2. I knew decedent from _____ (insert date) until _____ (insert date). Decedent died on _____ (insert date of death). Decedent's place of death was _____ (insert place of death). At the time of decedent's death, decedent's residence was _____ (insert address of decedent's residence).

3. Decedent's marital history was as follows: _____ (insert marital history and, if decedent's spouse is deceased, insert date and place of spouse's death).

4. Decedent had the following children: _____ (insert name, birth date, name of other parent, and current address of child or date of death of child and descendants of deceased child, as applicable, for each child).

5. Decedent did not have or adopt any other children and did not take any other children into decedent's home or raise any other children, except: _____ (insert name of child or names of children, or state "none").

6. (Include if decedent was not survived by descendants.) Decedent's mother was: _____ (insert name, birth date, and current address or date of death of mother, as applicable).

7. (Include if decedent was not survived by descendants.) Decedent's father was: _____ (insert name, birth date, and current address or date of death of father, as applicable).

8. (Include if decedent was not survived by descendants or by both mother and father.) Decedent had the following siblings: _____ (insert name, birth date, and current address or date of death of each sibling and parents of each sibling and descendants of each deceased sibling, as applicable, or state "none").

9. (Optional.) The following persons have knowledge regarding the decedent, the identity of decedent's children, if any, parents, or siblings, if any: _____ (insert names of persons with knowledge, or state "none").

10. Decedent died without leaving a written will. (Modify statement if decedent left a written will.)

11. There has been no administration of decedent's estate. (Modify statement if there has been administration of decedent's estate.)

12. Decedent left no debts that are unpaid, except: _____ (insert list of debts, or state "none").

13. There are no unpaid estate or inheritance taxes, except: _____ (insert list of unpaid taxes, or state "none").

14. To the best of my knowledge, decedent owned an interest in the following real property: _____ (insert list of real property in which decedent owned an interest, or state "none").

15. (Optional.) The following were the heirs of decedent: _____ (insert names of heirs).

16. (Insert additional information as appropriate, such as size of the decedent's estate.)

Signed this ____ day of _____, ____.

(signature of affiant)

State of _____

County of _____

Sworn to and subscribed to before me on _____ (date) by _____ (insert name of affiant).

(signature of notarial officer)

(Seal, if any, of notary) _____

(printed name)

My commission expires: _____

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. [2502](#)), Sec. 1,
eff. January 1, 2014.