

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE F. WILLS

CHAPTER 257. PROBATE OF WILL AS MUNIMENT OF TITLE

SUBCHAPTER A. AUTHORIZATION

Sec. 257.001. PROBATE OF WILL AS MUNIMENT OF TITLE AUTHORIZED. A court may admit a will to probate as a muniment of title if the court is satisfied that the will should be admitted to probate and the court:

(1) is satisfied that the testator's estate does not owe an unpaid debt, other than any debt secured by a lien on real estate; or

(2) finds for another reason that there is no necessity for administration of the estate.

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

SUBCHAPTER B. APPLICATION AND PROOF REQUIREMENTS

Sec. 257.051. CONTENTS OF APPLICATION GENERALLY. (a) An application for the probate of a will as a muniment of title must state and aver the following to the extent each is known to the applicant or can, with reasonable diligence, be ascertained by the applicant:

(1) each applicant's name and domicile;

(1-a) the last three numbers of each applicant's driver's license number and social security number, if the applicant has been issued one;

(2) the testator's name, domicile, and, if known, age, on the date of the testator's death;

(2-a) the last three numbers of the testator's driver's license number and social security number;

(3) the fact, date, and place of the testator's death;

(4) facts showing that the court with which the application is filed has venue;

(5) that the testator owned property, including a statement generally describing the property and the property's probable value;

(6) the date of the will;

(7) the name, state of residence, and physical address where service can be had of the executor named in the will;

(8) the name of each subscribing witness to the will, if any;

(9) whether one or more children born to or adopted by the testator after the testator executed the will survived the testator and, if so, the name of each of those children;

(10) that the testator's estate does not owe an unpaid debt, other than any debt secured by a lien on real estate, or that for another reason there is no necessity for administration of the estate;

(11) whether a marriage of the testator was ever dissolved after the will was made and, if so, when and from whom; and

(12) whether the state, a governmental agency of the state, or a charitable organization is named in the will as a devisee.

(b) If an applicant does not state or aver any matter required by Subsection (a) in the application, the application must state the reason the matter is not stated and averred.

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. [1198](#)), Sec. 2.33(a), eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 949 (S.B. [995](#)), Sec. 25, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 844 (H.B. [2271](#)), Sec. 24, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1039 (H.B. [1814](#)), Sec. 2, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. [2782](#)), Sec. 15, eff. September 1, 2019.

Sec. 257.052. FILING OF WILL WITH APPLICATION GENERALLY REQUIRED. (a) An applicant for the probate of a will as a muniment of title shall file the will with the application if the will is in the applicant's control.

(b) A will filed under Subsection (a) must remain in the custody of the county clerk unless removed from the clerk's custody by court order.

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

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 32, eff. January 1, 2014.

Sec. 257.053. ADDITIONAL APPLICATION REQUIREMENTS WHEN NO WILL IS PRODUCED. In addition to the requirements for an application under Section 257.051, if an applicant for the probate of a will as a muniment of title cannot produce the will in court, the application must state:

(1) the reason the will cannot be produced;

(2) the contents of the will, to the extent known; and

(3) the name and address, if known, whether the person is an adult or minor, and the relationship to the testator, if any, of:

(A) each devisee;

(B) each person who would inherit as an heir of the testator in the absence of a valid will; and

(C) in the case of partial intestacy, each heir of the testator.

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

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 33, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 949 (S.B. 995), Sec. 26, eff. September 1, 2015.

Sec. 257.054. PROOF REQUIRED. An applicant for the probate of a will as a muniment of title must prove to the court's satisfaction that:

- (1) the testator is dead;
- (2) four years have not elapsed since the date of the testator's death and before the application;
- (3) the court has jurisdiction and venue over the estate;
- (4) citation has been served and returned in the manner and for the period required by this title;
- (5) the testator's estate does not owe an unpaid debt, other than any debt secured by a lien on real estate, or that for another reason there is no necessity for administration of the estate;
- (6) the testator did not revoke the will; and
- (7) if the will is not self-proved in the manner provided by this title, the testator:

(A) executed the will with the formalities and solemnities and under the circumstances required by law to make the will valid; and

(B) at the time of executing the will was of sound mind and:

- (i) was 18 years of age or older;
- (ii) was or had been married; or
- (iii) was a member of the armed forces of the United States, an auxiliary of the armed forces of the United States, or the United States Maritime Service.

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

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 844 (H.B. [2271](#)), Sec. 25, eff. September 1, 2017.

#### SUBCHAPTER C. ORDER ADMITTING WILL; REPORT

Sec. 257.101. DECLARATORY JUDGMENT CONSTRUING WILL. (a) On application and notice as provided by Chapter [37](#), Civil Practice

and Remedies Code, the court may hear evidence and include in an order probating a will as a muniment of title a declaratory judgment:

(1) construing the will, if a question of construction of the will exists; or

(2) determining those persons who are entitled to receive property under the will and the persons' shares or interests in the estate, if a person who is entitled to property under the provisions of the will cannot be ascertained solely by reference to the will.

(b) A declaratory judgment under this section is conclusive in any suit between a person omitted from the judgment and a bona fide purchaser for value who purchased property after entry of the judgment without actual notice of the claim of the omitted person to an interest in the estate.

(c) A person who delivered the testator's property to a person declared to be entitled to the property under the declaratory judgment under this section or engaged in any other transaction with the person in good faith after entry of the judgment is not liable to any person for actions taken in reliance on the judgment.

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

Sec. 257.102. AUTHORITY OF CERTAIN PERSONS ACTING IN ACCORDANCE WITH ORDER. (a) An order admitting a will to probate as a muniment of title constitutes sufficient legal authority for each person who owes money to the testator's estate, has custody of property, acts as registrar or transfer agent of any evidence of interest, indebtedness, property, or right belonging to the estate, or purchases from or otherwise deals with the estate, to pay or transfer without administration the applicable asset without liability to a person described in the will as entitled to receive the asset.

(b) A person who is entitled to property under the provisions of a will admitted to probate as a muniment of title is entitled to deal with and treat the property in the same manner as

if the record of title to the property was vested in the person's name.

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

Sec. 257.103. REPORT BY APPLICANT AFTER PROBATE. (a) Except as provided by Subsection (b), not later than the 180th day after the date a will is admitted to probate as a muniment of title, the applicant for the probate of the will shall file with the court clerk a sworn affidavit stating specifically the terms of the will that have been fulfilled and the terms that have not been fulfilled.

(b) The court may:

(1) waive the requirement under Subsection (a); or  
(2) extend the time for filing the affidavit under Subsection (a).

(c) The failure of an applicant for probate of a will to file the affidavit required by Subsection (a) does not affect title to property passing under the terms of the will.

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

#### SUBCHAPTER D. SUBSEQUENT ESTATE ADMINISTRATION

Sec. 257.151. APPOINTMENT OF PERSONAL REPRESENTATIVE AND OPENING OF ADMINISTRATION AFTER WILL ADMITTED TO PROBATE AS MUNIMENT OF TITLE. A court order admitting a will to probate as a muniment of title under this chapter does not preclude the subsequent appointment of a personal representative and opening of an administration for the testator's estate if:

(1) an application under Chapter 301 is filed not later than the fourth anniversary of the testator's death; or

(2) the administration of the testator's estate is necessary for a reason provided by Section 301.002(b).

Added by Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 16, eff. September 1, 2019.

Sec. 257.152. COMPUTATION OF CERTAIN PERIODS. If a

personal representative is appointed for a testator's estate after the testator's will has been admitted to probate as a muniment of title, the periods prescribed by the following sections begin to run from the date of qualification of the personal representative rather than from the date the will is admitted to probate as a muniment of title:

- (1) Section [306.001](#);
- (2) Section [306.002\(a\)\(2\)\(B\)\(ii\)](#);
- (3) Section [308.002](#); and
- (4) Section [308.004](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. [2782](#)), Sec. 16, eff. September 1, 2019.