

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE G. INITIAL APPOINTMENT OF PERSONAL REPRESENTATIVE AND  
OPENING OF ADMINISTRATION

CHAPTER 309. INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS

SUBCHAPTER A. APPRAISERS

Sec. 309.001. APPOINTMENT OF APPRAISERS. (a) At any time after letters testamentary or of administration are granted, the court, for good cause, on the court's own motion or on the motion of an interested person shall appoint at least one but not more than three disinterested persons who are residents of the county in which the letters were granted to appraise the estate property.

(b) If the court makes an appointment under Subsection (a) and part of the estate is located in a county other than the county in which the letters were granted, the court, if the court considers necessary, may appoint at least one but not more than three disinterested persons who are residents of the county in which the relevant part of the estate is located to appraise the estate property located in that county.

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

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 949 (S.B. 995), Sec. 32, eff. September 1, 2015.

Sec. 309.002. APPRAISERS' FEES. An appraiser appointed by the court as herein authorized is entitled to receive compensation, payable out of the estate, of at least \$5 for each day the appraiser actually serves in performing the appraiser's duties.

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

Sec. 309.003. FAILURE OR REFUSAL TO ACT BY APPRAISERS. If an appraiser appointed under Section 309.001 fails or refuses to act, the court by one or more similar orders shall remove the

appraiser and appoint one or more other appraisers, as the case requires.

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

SUBCHAPTER B. REQUIREMENTS FOR INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS; AFFIDAVIT IN LIEU OF INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS

Sec. 309.051. INVENTORY AND APPRAISEMENT. (a) Except as provided by Subsection (c) or Section 309.056 or unless a longer period is granted by the court, before the 91st day after the date the personal representative qualifies, the representative shall prepare and file with the court clerk a single written instrument that contains a verified, full, and detailed inventory of all estate property that has come into the representative's possession or of which the representative has knowledge. The inventory must:

(1) include:

(A) all estate real property located in this state; and

(B) all estate personal property regardless of where the property is located; and

(2) specify which portion of the property, if any, is separate property and which, if any, is community property.

(b) The personal representative shall:

(1) set out in the inventory the representative's appraisal of the fair market value on the date of the decedent's death of each item in the inventory; or

(2) if the court has appointed one or more appraisers for the estate:

(A) determine the fair market value of each item in the inventory with the assistance of the appraiser or appraisers; and

(B) set out that appraisal in the inventory.

(c) The court for good cause shown may require the personal representative to file the inventory and appraisal within a shorter period than the period prescribed by Subsection (a).

(d) The inventory, when approved by the court and filed with the court clerk, is for all purposes the inventory and appraisal of the estate referred to in this title.

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. 91 (S.B. 1303), Sec. 8.014, eff. January 1, 2014.

Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.40, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 40, eff. January 1, 2014.

Sec. 309.052. LIST OF CLAIMS. A complete list of claims due or owing to the estate must be attached to the inventory and appraisal required by Section 309.051. The list of claims must state:

(1) the name and, if known, address of each person indebted to the estate; and

(2) regarding each claim:

(A) the nature of the debt, whether by note, bill, bond, or other written obligation, or by account or verbal contract;

(B) the date the debt was incurred;

(C) the date the debt was or is due;

(D) the amount of the claim, the rate of interest on the claim, and the period for which the claim bears interest; and

(E) whether the claim is separate property or community property.

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. 2.41, eff. January 1, 2014.

Sec. 309.053. AFFIDAVIT OF PERSONAL REPRESENTATIVE. The personal representative shall attach to the inventory,

appraisement, and list of claims the representative's affidavit, subscribed and sworn to before an officer in the county authorized by law to administer oaths, that the inventory, appraisement, and list of claims are a true and complete statement of the property and claims of the estate of which the representative has knowledge.

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

Sec. 309.054. APPROVAL OR DISAPPROVAL BY THE COURT. (a) On the filing of the inventory, appraisement, and list of claims with the court clerk, the judge shall examine and approve or disapprove the inventory, appraisement, and list of claims.

(b) If the judge approves the inventory, appraisement, and list of claims, the judge shall enter an order to that effect.

(c) If the judge does not approve the inventory, appraisement, or list of claims, the judge:

(1) shall enter an order to that effect requiring the filing of another inventory, appraisement, or list of claims, whichever is not approved, within a period specified in the order not to exceed 20 days after the date the order is entered; and

(2) may, if considered necessary, appoint new appraisers.

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

Sec. 309.055. FAILURE OF JOINT PERSONAL REPRESENTATIVES TO FILE INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS OR AFFIDAVIT IN LIEU OF INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS. (a) If more than one personal representative qualifies to serve, any one or more of the representatives, on the neglect of the other representatives, may make and file an inventory, appraisement, and list of claims or an affidavit in lieu of an inventory, appraisement, and list of claims.

(b) A personal representative who neglects to make or file an inventory, appraisement, and list of claims or an affidavit in lieu of an inventory, appraisement, and list of claims may not interfere with and does not have any power over the estate after

another representative makes and files an inventory, appraisement, and list of claims or an affidavit in lieu of an inventory, appraisement, and list of claims.

(c) The personal representative who files the inventory, appraisement, and list of claims or the affidavit in lieu of an inventory, appraisement, and list of claims is entitled to the whole administration unless, before the 61st day after the date the representative files the inventory, appraisement, and list of claims or the affidavit in lieu of an inventory, appraisement, and list of claims, one or more delinquent representatives file with the court a written, sworn, and reasonable excuse that the court considers satisfactory. The court shall enter an order removing one or more delinquent representatives and revoking those representatives' letters if:

(1) an excuse is not filed; or

(2) the court does not consider the filed excuse sufficient.

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. 2.42, eff. January 1, 2014.

Sec. 309.056. AFFIDAVIT IN LIEU OF INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS. (a) In this section, "beneficiary" means a person, entity, state, governmental agency of the state, charitable organization, or trust entitled to receive property:

(1) under the terms of a decedent's will, to be determined for purposes of this section with the assumption that each person who is alive on the date of the decedent's death survives any period required to receive the bequest as specified by the terms of the will; or

(2) as an heir of the decedent.

(b) Notwithstanding Sections [309.051](#) and [309.052](#), or any contrary provision in a decedent's will that does not specifically prohibit the filing of an affidavit described by this subsection, if there are no unpaid debts, except for secured debts, taxes, and

administration expenses, at the time the inventory is due, including any extensions, an independent executor may file with the court clerk, in lieu of the inventory, appraisement, and list of claims, an affidavit stating that all debts, except for secured debts, taxes, and administration expenses, are paid and that all beneficiaries other than those described by Subsection (b-1) have received a verified, full, and detailed inventory and appraisement. The affidavit in lieu of the inventory, appraisement, and list of claims must be filed within the 90-day period prescribed by Section 309.051(a), unless the court grants an extension.

(b-1) Absent a written request by a beneficiary, an independent executor is not required to provide a verified, full, and detailed inventory and appraisement to a beneficiary who:

(1) is entitled to receive aggregate devises under the will with an estimated value of \$2,000 or less;

(2) has received all devises to which the beneficiary is entitled under the will on or before the date an affidavit under this section is filed; or

(3) has waived in writing the beneficiary's right to receive a verified, full, and detailed inventory and appraisement.

(c) If the independent executor files an affidavit in lieu of the inventory, appraisement, and list of claims as authorized under Subsection (b):

(1) any person interested in the estate, including a possible heir of the decedent, a beneficiary under a prior will of the decedent, or a beneficiary described by Subsection (b-1), is entitled to receive a copy of the inventory, appraisement, and list of claims from the independent executor on written request;

(2) the independent executor may provide a copy of the inventory, appraisement, and list of claims to any person the independent executor believes in good faith may be a person interested in the estate without liability to the estate or its beneficiaries; and

(3) a person interested in the estate may apply to the court for an order compelling compliance with Subdivision (1), and the court, in its discretion, may compel the independent executor

to provide a copy of the inventory, appraisement, and list of claims to the interested person or may deny the application.

(d) An independent executor is not liable for choosing to file:

(1) an affidavit under this section in lieu of filing an inventory, appraisement, and list of claims, if permitted by law; or

(2) an inventory, appraisement, and list of claims in lieu of filing an affidavit under this section.

(e) Any extension granted by a court of the period in which to file an inventory, appraisement, and list of claims prescribed by Section 309.051 is considered an extension of the filing period for an affidavit under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.43, eff. January 1, 2014.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 41, eff. January 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 949 (S.B. 995), Sec. 33, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 21, eff. September 1, 2019.

Sec. 309.057. PENALTY FOR FAILURE TO TIMELY FILE INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS OR AFFIDAVIT IN LIEU OF. (a) This section applies only to a personal representative, including an independent executor or administrator, who does not file an inventory, appraisement, and list of claims or affidavit in lieu of the inventory, appraisement, and list of claims, as applicable, within the period prescribed by Section 309.051 or any extension granted by the court.

(b) Any person interested in the estate on written complaint, or the court on the court's own motion, may have a personal representative to whom this section applies cited to file the inventory, appraisement, and list of claims or affidavit in lieu of the inventory, appraisement, and list of claims, as applicable, and show cause for the failure to timely file.

(c) If the personal representative does not file the inventory, appraisal, and list of claims or affidavit in lieu of the inventory, appraisal, and list of claims, as applicable, after being cited or does not show good cause for the failure to timely file, the court on hearing may fine the representative in an amount not to exceed \$1,000.

(d) The personal representative and the representative's sureties, if any, are liable for any fine imposed under this section and for all damages and costs sustained by the representative's failure. The fine, damages, and costs may be recovered in any court of competent jurisdiction.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1136 (H.B. 2912), Sec. 42, eff. January 1, 2014.

Sec. 309.0575. PENALTY FOR MISREPRESENTATION IN AFFIDAVIT IN LIEU OF INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS. (a) The court, on its own motion or on motion of any person interested in the estate, and after an independent executor has been cited to answer at a time and place fixed in the notice, may fine an independent executor in an amount not to exceed \$1,000 if the court finds that the executor misrepresented in an affidavit in lieu of the inventory, appraisal, and list of claims filed by the executor that all beneficiaries, other than those described by Section 309.056(b-1), received a verified, full, and detailed inventory and appraisal as required by Section 309.056(b).

(b) The independent executor and the executor's sureties, if any, are liable for any fine imposed under this section and for all damages and costs sustained by the executor's misrepresentation. The fine, damages, and costs may be recovered in any court of competent jurisdiction.

Added by Acts 2017, 85th Leg., R.S., Ch. 1043 (H.B. 1877), Sec. 1, eff. September 1, 2017.

#### SUBCHAPTER C. CHANGES TO INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS

Sec. 309.101. DISCOVERY OF ADDITIONAL PROPERTY OR CLAIMS.



(a) If after the filing of the inventory, appraisalment, and list of claims the personal representative acquires possession or knowledge of property or claims of the estate not included in the inventory, appraisalment, and list of claims the representative shall promptly file with the court clerk a verified, full, and detailed supplemental inventory, appraisalment, and list of claims.

(b) If after the filing of the affidavit in lieu of the inventory, appraisalment, and list of claims the personal representative acquires possession or knowledge of property or claims of the estate not included in the inventory and appraisalment given to the beneficiaries, the representative shall promptly file with the court clerk a supplemental affidavit in lieu of the inventory, appraisalment, and list of claims stating that all beneficiaries have received a verified, full, and detailed supplemental inventory and appraisalment.

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. 2.44, eff. January 1, 2014.

Sec. 309.102. ADDITIONAL INVENTORY AND APPRAISEMENT OR LIST OF CLAIMS. (a) On the written complaint of any interested person that property or claims of the estate have not been included in the filed inventory, appraisalment, and list of claims, the personal representative shall be cited to appear before the court in which the cause is pending and show cause why the representative should not be required to make and file an additional inventory and appraisalment or list of claims, or both, as applicable.

(b) After hearing the complaint, if the court is satisfied of the truth of the complaint, the court shall enter an order requiring the personal representative to make and file an additional inventory and appraisalment or list of claims, or both, as applicable. The additional inventory and appraisalment or list of claims:

(1) must be made and filed in the same manner as the original inventory and appraisalment or list of claims within the

period prescribed by the court, not to exceed 20 days after the date the order is entered; and

(2) may include only property or claims not previously included in the inventory and appraisal or list of claims.

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

Sec. 309.103. CORRECTION OF INVENTORY, APPRAISEMENT, OR LIST OF CLAIMS FOR ERRONEOUS OR UNJUST ITEM. (a) Any interested person who considers an inventory, appraisal, or list of claims or an affidavit in lieu of the inventory, appraisal, and list of claims to be erroneous or unjust in any particular may:

(1) file a written complaint setting forth the alleged erroneous or unjust item; and

(2) have the personal representative cited to appear before the court and show cause why the item should not be corrected.

(b) On the hearing of the complaint, if the court is satisfied from the evidence that the inventory, appraisal, or list of claims or an affidavit in lieu of the inventory, appraisal, and list of claims is erroneous or unjust as alleged in the complaint, the court shall enter an order:

(1) specifying the erroneous or unjust item and the corrections to be made; and

(2) if the complaint relates to an inventory, appraisal, or list of claims, appointing appraisers to make a new appraisal correcting the erroneous or unjust item and requiring the filing of the new appraisal before the 21st day after the date of the order.

(c) The court on the court's own motion or that of the personal representative may also have a new appraisal made for the purposes described by this section.

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. 43, eff. January 1, 2014.

Sec. 309.104. REAPPRAISEMENT. (a) A reappraisal made, filed, and approved by the court replaces the original appraisal. Not more than one reappraisal may be made.

(b) Notwithstanding Subsection (a), an interested person may object to a reappraisal regardless of whether the court has approved the reappraisal. If the court finds that the reappraisal is erroneous or unjust, the court shall appraise the property on the basis of the evidence before the court.

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

#### SUBCHAPTER D. USE OF INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS AS EVIDENCE

Sec. 309.151. USE OF INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS AS EVIDENCE. Each inventory, appraisal, and list of claims that has been made, filed, and approved in accordance with law, the record of the inventory, appraisal, and list of claims, or a copy of an original or the record that has been certified under the seal of the county court affixed by the clerk:

(1) may be given in evidence in any court of this state in any suit by or against the personal representative; and

(2) is not conclusive for or against the representative if it is shown that:

(A) any property or claim of the estate is not shown in the originals, the record, or the copies; or

(B) the value of the property or claim of the estate exceeded the value shown in the appraisal or list of claims.

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