

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE H. CONTINUATION OF ADMINISTRATION

CHAPTER 356. SALE OF ESTATE PROPERTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 356.001. COURT ORDER AUTHORIZING SALE. (a) Except as provided by this chapter, estate property may not be sold without a court order authorizing the sale.

(b) Except as otherwise specially provided by this chapter, the court may order estate property to be sold for cash or on credit, at public auction or privately, as the court considers most advantageous to the estate.

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

Sec. 356.002. SALE AUTHORIZED BY WILL. (a) Subject to Subsection (b), if a will authorizes the executor to sell the testator's property:

(1) a court order is not required to authorize the executor to sell the property; and

(2) the executor may sell the property:

(A) at public auction or privately as the executor considers to be in the best interest of the estate; and

(B) for cash or on credit terms determined by the executor.

(b) Any particular directions in the testator's will regarding the sale of estate property shall be followed unless the directions have been annulled or suspended by court order.

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

SUBCHAPTER B. CERTAIN ESTATE PROPERTY REQUIRED TO BE SOLD

Sec. 356.051. SALE OF CERTAIN PERSONAL PROPERTY REQUIRED.

(a) After approval of the inventory, appraisement, and list of

claims, the personal representative of an estate promptly shall apply for a court order to sell, at public auction or privately, for cash or on credit for a term not to exceed six months, all estate property that is liable to perish, waste, or deteriorate in value, or that will be an expense or disadvantage to the estate if kept.

(b) The following may not be included in a sale under Subsection (a):

- (1) property exempt from forced sale;
- (2) property that is the subject of a specific legacy;

and

(3) personal property necessary to carry on a farm, ranch, factory, or other business that is thought best to operate.

(c) In determining whether to order the sale of an asset under Subsection (a), the court shall consider:

(1) the personal representative's duty to take care of and manage the estate in the manner a person of ordinary prudence, discretion, and intelligence would manage the person's own affairs; and

(2) whether the asset constitutes an asset that a trustee is authorized to invest under Subchapter F, Chapter 113, Property Code, or Chapter 117, Property Code.

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

#### SUBCHAPTER C. SALE OF PERSONAL PROPERTY

Sec. 356.101. ORDER FOR SALE. (a) Except as provided by Subsection (b), on the application of the personal representative of an estate or any interested person, the court may order the sale of any estate personal property not required to be sold by Section 356.051, including livestock or growing or harvested crops, if the court finds that the sale of the property is in the estate's best interest to pay, from the proceeds of the sale:

- (1) expenses of administration;
- (2) the decedent's funeral expenses;
- (3) expenses of the decedent's last illness;
- (4) allowances; or

(5) claims against the estate.

(b) The court may not order under this section the sale of exempt property or property that is the subject of a specific legacy.

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

Sec. 356.102. REQUIREMENTS FOR APPLICATION AND ORDER. To the extent possible, an application and order for the sale of personal property under Section 356.101 must conform to the requirements under Subchapter F for an application and order for the sale of real estate.

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

Sec. 356.103. SALE AT PUBLIC AUCTION. Unless the court directs otherwise, before estate personal property is sold at public auction, notice must be:

(1) issued by the personal representative of the estate; and

(2) posted in the manner notice is posted for original proceedings in probate.

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

Sec. 356.104. SALE ON CREDIT. (a) Estate personal property may not be sold on credit at public auction for a term of more than six months from the date of sale.

(b) Estate personal property purchased on credit at public auction may not be delivered to the purchaser until the purchaser gives a note for the amount due, with good and solvent personal security. The requirement that security be provided may be waived if the property will not be delivered until the note, with interest, has been paid.

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

Sec. 356.105. REPORT; EVIDENCE OF TITLE. (a) A sale of estate personal property shall be reported to the court. The laws regulating the approval or disapproval of a sale of real estate apply to the sale, except that a conveyance is not required.

(b) The court's order approving the sale of estate personal property:

(1) vests the right and title of the intestate's estate in the purchaser who has complied with the terms of the sale; and

(2) is prima facie evidence that all requirements of the law in making the sale have been met.

(c) The personal representative of an estate, on request, may issue a bill of sale without warranty to the purchaser of estate personal property as evidence of title. The purchaser shall pay for the issuance of the bill of sale.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 29, eff. September 1, 2019.

#### SUBCHAPTER D. SALE OF LIVESTOCK

Sec. 356.151. AUTHORITY FOR SALE. (a) A personal representative of an estate who has possession of livestock and who considers selling the livestock to be necessary or to the estate's advantage may, in addition to any other method provided by law for the sale of personal property, obtain authority from the court in which the estate is pending to sell the livestock through:

(1) a bonded livestock commission merchant; or

(2) a bonded livestock auction commission merchant.

(b) The court may authorize the sale of livestock in the manner described by Subsection (a) on a written and sworn application by the personal representative or any person interested in the estate.

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

Sec. 356.152. CONTENTS OF APPLICATION; HEARING. (a) An application under Section 356.151 must:

- (1) describe the livestock sought to be sold; and
- (2) state why granting the application is necessary or to the estate's advantage.

(b) The court:

- (1) shall promptly consider the application; and
- (2) may hear evidence for or against the application, with or without notice, as the facts warrant.

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

Sec. 356.153. GRANT OF APPLICATION. If the court grants an application for the sale of livestock, the court shall:

- (1) enter an order to that effect; and
- (2) authorize delivery of the livestock to a commission merchant described by Section 356.151 for sale in the regular course of business.

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

Sec. 356.154. REPORT; PASSAGE OF TITLE. The personal representative of the estate shall promptly report to the court a sale of livestock authorized under this subchapter, supported by a verified copy of the commission merchant's account of the sale. A court order of confirmation is not required to pass title to the purchaser of the livestock.

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

Sec. 356.155. COMMISSION MERCHANT FEES. A commission merchant shall be paid the merchant's usual and customary charges, not to exceed five percent of the sale price, for the sale of livestock authorized under this subchapter.

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

SUBCHAPTER E. SALE OF MORTGAGED PROPERTY

Sec. 356.201. APPLICATION FOR SALE OF MORTGAGED PROPERTY. A creditor holding a claim that is secured by a valid mortgage or other lien and that has been allowed and approved or established by suit may, by filing a written application, obtain from the court in which the estate is pending an order requiring that the property securing the lien, or as much of the property as is necessary to satisfy the claim, be sold.

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

Sec. 356.202. CITATION. On the filing of an application under Section 356.201, the clerk shall issue a citation requiring the personal representative of the estate to appear and show cause why the application should not be granted.

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

Sec. 356.203. ORDER. The court may order the lien securing the claim of a creditor who files an application under Section 356.201 to be discharged out of general estate assets or refinanced if the discharge or refinance of the lien appears to the court to be advisable. Otherwise, the court shall grant the application and order that the property securing the lien be sold at public or private sale, as considered best, as in an ordinary sale of real estate.

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

SUBCHAPTER F. SALE OF REAL PROPERTY: APPLICATION AND ORDER FOR  
SALE

Sec. 356.251. APPLICATION FOR ORDER OF SALE. An application may be made to the court for an order to sell estate property if the sale appears necessary or advisable to:

- (1) pay:

- (A) expenses of administration;
- (B) the decedent's funeral expenses;
- (C) expenses of the decedent's last illness;
- (D) allowances; and
- (E) claims against the estate; or

(2) dispose of an interest in estate real property if selling the interest is considered in the estate's best interest.

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

Sec. 356.252. CONTENTS OF APPLICATION. An application for the sale of real estate must:

(1) be in writing;

(2) describe:

(A) the real estate sought to be sold; or

(B) the interest in or part of the real estate sought to be sold; and

(3) be accompanied by an exhibit, verified by an affidavit, showing:

(A) the estate's condition fully and in detail;

(B) the charges and claims that have been approved or established by suit or that have been rejected and may yet be established;

(C) the amount of each claim described by Paragraph (B);

(D) the estate property remaining on hand that is liable for the payment of the claims described by Paragraph (B); and

(E) any other facts showing the necessity for or advisability of the sale.

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

Sec. 356.253. CITATION. On the filing of an application and exhibit described by Section 356.252, the clerk shall issue a citation to all persons interested in the estate. The citation must:

(1) describe the real estate or the interest in or part

of the real estate sought to be sold;

(2) inform the interested persons of the right under Section 356.254 to file an opposition to the sale during the period prescribed by the court in the citation; and

(3) be served by posting.

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

Sec. 356.254. OPPOSITION TO SALE. During the period prescribed in a citation issued under Section 356.253, any person interested in the estate may file:

(1) a written opposition to the sale; or

(2) an application for the sale of other estate property.

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

Sec. 356.255. HEARING ON APPLICATION AND ANY OPPOSITION.

(a) The clerk of the court in which an application for an order of sale is filed shall immediately call to the judge's attention any opposition to the sale that is filed during the period prescribed in the citation issued under Section 356.253. The court shall hold a hearing on the application if an opposition to the sale is filed during the period prescribed in the citation.

(b) A hearing on an application for an order of sale is not required under this section if no opposition to the application is filed during the period prescribed in the citation. The court may determine that a hearing on the application is necessary even if no opposition is filed during that period.

(c) If the court orders a hearing under Subsection (a) or (b), the court shall designate in writing a date and time for the hearing on the application and any opposition, together with the evidence pertaining to the application and any opposition. The clerk shall issue a notice of the date and time of the hearing to the applicant and to each person who files an opposition to the sale, if applicable.

(d) The judge, by entries on the docket, may continue a



hearing held under this section from time to time until the judge is satisfied concerning the application.

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

Sec. 356.256. ORDER. (a) The court shall order the sale of the estate property described in an application for an order of sale if the court is satisfied that the sale is necessary or advisable. Otherwise, the court may deny the application and, if the court considers it best, may order the sale of other estate property the sale of which would be more advantageous to the estate.

(b) An order for the sale of real estate under this section must specify:

(1) the property to be sold, including a description that identifies that property;

(2) whether the property is to be sold at public auction or private sale and, if at public auction, the time and place of the sale;

(3) the necessity or advisability of, and the purpose of, the sale;

(4) except in a case in which a personal representative was not required to give a general bond, that the court, after examining the general bond given by the representative, finds that:

(A) the bond is sufficient as required by law; or

(B) the bond is insufficient;

(5) if the court finds that the general bond is insufficient under Subdivision (4)(B), the amount of the necessary or increased bond, as applicable;

(6) that the sale is to be made and the report returned in accordance with law; and

(7) the terms of the sale.

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

Sec. 356.257. SALE FOR PAYMENT OF DEBTS. Estate real property selected to be sold for the payment of expenses or claims

must be that property the sale of which the court considers most advantageous to the estate.

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

#### SUBCHAPTER G. SALE OF REAL ESTATE: TERMS OF SALE

Sec. 356.301. PERMISSIBLE TERMS. Real estate of an estate may be sold for cash, part cash and part credit, or the equity in land securing an indebtedness may be sold subject to the indebtedness, or with an assumption of the indebtedness, at public or private sale, as appears to the court to be in the estate's best interest.

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

Sec. 356.302. SALE ON CREDIT. (a) The cash payment for real estate of an estate sold partly on credit may not be less than one-fifth of the purchase price. The purchaser shall execute a note for the deferred payments, payable in monthly, quarterly, semiannual, or annual installments, in amounts that appear to the court to be in the estate's best interest. The note must bear interest from the date at a rate of not less than four percent per year, payable as provided in the note.

(b) A note executed by a purchaser under Subsection (a) must be secured by a vendor's lien retained in the deed and in the note on the property sold, and be further secured by a deed of trust on the property sold, with the usual provisions for foreclosure and sale on failure to make the payments provided in the deed and the note.

(c) At the election of the holder of a note executed by a purchaser under Subsection (a), default in the payment of principal, interest, or any part of the principal or interest, when due matures the entire debt.

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

SUBCHAPTER H. RECONVEYANCE OF REAL ESTATE FOLLOWING FORECLOSURE

Sec. 356.351. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to real estate owned by an estate as a result of the foreclosure of a vendor's lien or mortgage belonging to the estate:

- (1) by a judicial sale;
- (2) by a foreclosure suit;
- (3) through a sale under a deed of trust; or
- (4) by acceptance of a deed in cancellation of a lien

or mortgage owned by the estate.

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

Sec. 356.352. APPLICATION AND ORDER FOR RECONVEYANCE. On proper application and proof, the court may dispense with the requirements for a credit sale prescribed by Section 356.302 and order the reconveyance of foreclosed real estate to the former mortgage debtor or former owner if it appears to the court that:

(1) an application to redeem the real estate has been made by the former owner to a corporation or agency created by an Act of the United States Congress or of this state in connection with legislation for the relief of owners of mortgaged or encumbered homes, farms, ranches, or other real estate; and

(2) owning bonds of one of those federal or state corporations or agencies instead of the real estate would be in the estate's best interest.

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

Sec. 356.353. EXCHANGE FOR BONDS. (a) If a court orders the reconveyance of foreclosed real estate as provided by Section 356.352, vendor's lien notes shall be reserved for the total amount of the indebtedness due or for the total amount of bonds that the corporation or agency to which the application to redeem the real estate was submitted as described by Section 356.352(1) is allowed to advance under the corporation's or agency's rules or regulations.

(b) On obtaining the order for reconveyance, it shall be proper for the personal representative of the estate to indorse and assign the reserved vendor's lien notes over to any one of the corporations or agencies described by Section 356.352(1) in exchange for bonds of that corporation or agency.

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

#### SUBCHAPTER I. SALE OF REAL ESTATE: PUBLIC AUCTION

Sec. 356.401. METHOD OF SALE; REQUIRED NOTICE. (a) A public sale of real estate of an estate shall be made at public auction. Except as otherwise provided by Section 356.403(c), the personal representative of an estate shall advertise a public auction of real estate of the estate by a notice published in the county in which the estate is pending, as provided by this title for publication of notices or citations. The notice must:

- (1) include a reference to the order of sale;
- (2) include the time, place, and required terms of sale; and
- (3) briefly describe the real estate to be sold.

(b) The notice required by Subsection (a) is not required to contain field notes, but if the real estate to be sold is rural property, the notice must include:

- (1) the name of the original survey of the real estate;
- (2) the number of acres comprising the real estate;
- (3) the location of the real estate in the county; and
- (4) any name by which the real estate is generally known.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 30, eff. September 1, 2019.

Sec. 356.402. COMPLETION OF AUCTION. A public auction of real estate of an estate shall be completed on the bid of the

highest bidder.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 30, eff. September 1, 2019.

Sec. 356.403. TIME AND PLACE OF AUCTION. (a) Except as provided by Subsection (c), a public auction of real estate of an estate shall be held at:

(1) the courthouse door in the county in which the real estate is located, or if the real estate is located in more than one county, the courthouse door in any county in which the real estate is located; or

(2) another place in a county described by Subdivision (1) at which auctions of real estate are specifically authorized to be held as designated by the commissioners court of the county under Section 51.002(a), Property Code.

(b) Except as otherwise provided by this subsection, the auction must occur between 10 a.m. and 4 p.m. on the first Tuesday of the month after publication of notice has been completed. If the first Tuesday of the month occurs on January 1 or July 4, the auction must occur between 10 a.m. and 4 p.m. on the first Wednesday of the month.

(c) If the court considers it advisable, the court may order the auction to be held in the county in which the proceedings are pending, in which event notice shall be published both in that county and in the county in which the real estate is located.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 30, eff. September 1, 2019.

Sec. 356.404. CONTINUANCE OF AUCTION. (a) A public auction of real estate of an estate that is not completed on the day advertised may be continued from day to day by an oral public

announcement of the continuance made at the conclusion of the auction each day.

(b) A continued auction must occur within the hours prescribed by Section 356.403(b).

(c) The continuance of an auction under this section shall be shown in the report made to the court under Section 356.551.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 30, eff. September 1, 2019.

Sec. 356.405. FAILURE OF BIDDER TO COMPLY. (a) If a person bids off real estate of the estate offered at public auction and fails to comply with the terms of the bid, the property shall be readvertised and auctioned without any further order.

(b) The person defaulting on a bid as described by Subsection (a) is liable for payment to the personal representative of the estate, for the estate's benefit, of:

(1) 10 percent of the amount of the bid; and

(2) the amount of any deficiency in price on the second auction.

(c) The personal representative may recover the amounts under Subsection (b) by suit in any court in the county in which the auction was made that has jurisdiction of the amount claimed.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 30, eff. September 1, 2019.

#### SUBCHAPTER J. SALE OF REAL ESTATE: CONTRACT FOR PRIVATE SALE

Sec. 356.451. TERMS OF SALE. The personal representative of an estate may enter into a contract for the private sale of real estate of the estate made in the manner the court directs in the order of sale. Unless the court directs otherwise, additional

advertising, notice, or citation concerning the sale is not required.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 30, eff. September 1, 2019.

#### SUBCHAPTER K. SALE OF EASEMENT OR RIGHT-OF-WAY

Sec. 356.501. AUTHORIZATION. Easements and rights-of-way on, under, and over the land of an estate that is being administered under court order may be sold and conveyed regardless of whether the sale proceeds are required to pay charges or claims against the estate or for other lawful purposes.

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

Sec. 356.502. PROCEDURE. The procedure for the sale of an easement or right-of-way authorized under Section 356.501 is the same as the procedure provided by law for a private sale of estate real property by contract.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 31, eff. September 1, 2019.

#### SUBCHAPTER L. APPROVAL OF SALE OF REAL PROPERTY AND TRANSFER OF TITLE

Sec. 356.551. REPORT. A successful bid or contract for the sale of estate real property shall be reported to the court ordering the sale not later than the 30th day after the date the bid is made or the property is placed under contract. The report must:

- (1) be sworn to, in writing, and filed with the clerk;
- (2) include:

- (A) the date of the order of sale;
  - (B) a description of the property being sold;
  - (C) the time and place of the auction or date the property is placed under contract;
  - (D) the purchaser's name;
  - (E) the amount of the successful bid or the purchase price for each parcel of property or interest in property auctioned or placed under contract;
  - (F) the terms of the sale;
  - (G) whether the proposed sale of the property was made at public auction or by contract; and
  - (H) whether the purchaser is ready to comply with the order of sale; and
- (3) be noted on the probate docket.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 33, eff. September 1, 2019.

Sec. 356.552. ACTION OF COURT ON REPORT. After the expiration of five days from the date a report is filed under Section 356.551, the court shall:

- (1) inquire into the manner in which the auction or contract described in the report was made;
- (2) hear evidence in support of or against the report; and
- (3) determine the sufficiency or insufficiency of the personal representative's general bond, if any has been required and given.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 34, eff. September 1, 2019.

Sec. 356.553. APPROVAL OF SALE WHEN BOND NOT REQUIRED. If



the personal representative of an estate is not required by this title to give a general bond, the court may approve the sale of estate real property in the manner provided by Section 356.556(a) if the court finds that the sale is satisfactory and made in accordance with law.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 35, eff. September 1, 2019.

Sec. 356.554. SUFFICIENCY OF BOND. (a) If the personal representative of an estate is required by this title to give a general bond, before the court approves any sale of real estate, the court shall determine whether the bond is sufficient to protect the estate after the sale proceeds are received.

(b) If the court finds that the general bond is sufficient, the court may approve the sale as provided by Section 356.556(a).

(c) If the court finds that the general bond is insufficient, the court may not approve the sale until the general bond is increased to the amount required by the court, or an additional bond is given, and approved by the court.

(d) An increase in the amount of the general bond, or the additional bond, as applicable under Subsection (c), must be equal to the sum of:

(1) the amount for which the real estate is sold; and

(2) any additional amount the court finds necessary and sets for the estate's protection.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 36, eff. September 1, 2019.

Sec. 356.555. INCREASED OR ADDITIONAL BOND NOT REQUIRED. Notwithstanding Sections 356.554(c) and (d), if the real estate sold is encumbered by a lien to secure a claim against the estate

and is sold to the owner or holder of the secured claim in full payment, liquidation, and satisfaction of the claim, an increased general bond or additional bond may not be required except for the amount of any cash paid to the personal representative of the estate in excess of the amount necessary to pay, liquidate, and satisfy the claim in full.

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

Sec. 356.556. APPROVAL OR DISAPPROVAL ORDER. (a) If the court is satisfied that the proposed sale of real property reported under Section 356.551 is for a fair price, properly made, and in conformity with law, and the court has approved any increased or additional bond that the court found necessary to protect the estate, the court shall enter an order:

- (1) approving the sale;
- (2) showing conformity with this chapter;
- (3) detailing the terms of the sale; and
- (4) authorizing the personal representative to convey the property on the purchaser's compliance with the terms of the sale.

(b) If the court is not satisfied that the proposed sale of real property is for a fair price, properly made, and in conformity with law, the court shall enter an order setting aside the bid or contract and ordering a new sale to be made, if necessary.

(c) The court's action in approving or disapproving a report under Section 356.551 has the effect of a final judgment. Any person interested in the estate or in the sale is entitled to have an order entered under this section reviewed as in other final judgments in probate proceedings.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 37, eff. September 1, 2019.

Sec. 356.557. DEED. Real estate of an estate that is sold

shall be conveyed by a proper deed that refers to and identifies the court order approving the sale. The deed:

(1) vests in the purchaser all right and title of the estate to, and all interest of the estate in, the property; and

(2) is prima facie evidence that the sale has met all applicable requirements of the law.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 38, eff. September 1, 2019.

Sec. 356.558. DELIVERY OF DEED. (a) After the court has approved a sale and the purchaser has complied with the terms of the sale, the personal representative of the estate shall promptly execute and deliver to the purchaser a proper deed conveying the property.

(b) If the sale is made partly on credit:

(1) the vendor's lien securing one or more purchase money notes must be expressly retained in the deed and may not be waived; and

(2) before actual delivery of the deed to the purchaser, the purchaser shall execute and deliver to the personal representative of the estate one or more vendor's lien notes, with or without personal sureties as ordered by the court, and a deed of trust or mortgage on the property as additional security for the payment of the notes.

(c) On completion of the transaction, the personal representative of the estate shall promptly file or cause to be filed and recorded the deed of trust or mortgage in the appropriate records in the county in which the land is located.

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

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 39, eff. September 1, 2019.

Sec. 356.559. DAMAGES; REMOVAL. (a) If the personal representative of an estate neglects to comply with Section 356.558, including to file the deed of trust securing a lien in the proper county, the representative and the sureties on the representative's bond shall, after complaint and citation, be held liable for the use of the estate and for all damages resulting from the representative's neglect, and the court may remove the representative.

(b) Damages under this section may be recovered in any court of competent jurisdiction.

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

#### SUBCHAPTER M. PROCEDURE ON FAILURE TO APPLY FOR SALE

Sec. 356.601. FAILURE TO APPLY FOR SALE. If the personal representative of an estate neglects to apply for an order to sell sufficient estate property to pay charges and claims against the estate that have been allowed and approved or established by suit, any interested person, on written application, may have the representative cited to appear and make a full exhibit of the estate's condition and show cause why a sale of the property should not be ordered.

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

Sec. 356.602. COURT ORDER. On hearing an application under Section 356.601, if the court is satisfied that a sale of estate property is necessary or advisable to satisfy the charges and claims described by Section 356.601, the court shall enter an order of sale as provided by Section 356.256.

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

#### SUBCHAPTER N. PURCHASE OF PROPERTY BY PERSONAL REPRESENTATIVE

Sec. 356.651. GENERAL PROHIBITION ON PURCHASE. Except as

otherwise provided by this subchapter, the personal representative of an estate may not purchase, directly or indirectly, any estate property sold by the representative or any co-representative of the estate.

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

Sec. 356.652. EXCEPTION: AUTHORIZATION IN WILL. A personal representative of an estate may purchase estate property if the representative was appointed in a will that:

- (1) has been admitted to probate; and
- (2) expressly authorizes the sale.

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

Sec. 356.653. EXCEPTION: EXECUTORY CONTRACT. A personal representative of a decedent's estate may purchase estate property in compliance with the terms of a written executory contract signed by the decedent, including:

- (1) a contract for deed;
- (2) an earnest money contract;
- (3) a buy/sell agreement; and
- (4) a stock purchase or redemption agreement.

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

Sec. 356.654. EXCEPTION: BEST INTEREST OF ESTATE. (a) Subject to Subsection (b), the personal representative of an estate, including an independent administrator, may purchase estate property on the court's determination that the sale is in the estate's best interest.

(b) Before purchasing estate property as authorized by Subsection (a), the personal representative shall give notice of the purchase by certified mail, return receipt requested, unless the court requires another form of notice, to:

- (1) each distributee of the estate; and
- (2) each creditor whose claim remains unsettled after

being presented within six months of the date letters testamentary or of administration are originally granted.

(c) The court may require additional notice or allow for the waiver of the notice required for a sale made under this section.

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

Sec. 356.655. PURCHASE IN VIOLATION OF SUBCHAPTER. (a) If a personal representative of an estate purchases estate property in violation of this subchapter, any person interested in the estate may file a written complaint with the court in which the proceedings are pending.

(b) On service of citation on the personal representative on a complaint filed under Subsection (a) and after hearing and proof, the court shall:

- (1) declare the sale void;
- (2) set aside the sale; and
- (3) order the reconveyance of the property to the estate.

(c) The court shall adjudge against the personal representative all costs of the sale, protest, and suit found necessary.

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