

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY
SUBTITLE J. ADDITIONAL MATTERS RELATING TO THE ADMINISTRATION OF
CERTAIN ESTATES

CHAPTER 455. PUBLIC PROBATE ADMINISTRATOR

Sec. 455.001. DEFINITION. In this chapter, "public probate administrator" means the public probate administrator appointed under Section 25.00251, Government Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. 1755), Sec. 2, eff. January 1, 2014.

Sec. 455.002. BOND OF PUBLIC PROBATE ADMINISTRATOR.

(a) The public probate administrator must execute an official bond of at least \$100,000 conditioned as required by law and payable to the statutory probate court judge who appointed the public probate administrator.

(b) In addition to the official bond of office, at any time, for good cause, the statutory probate court judge who appointed the public probate administrator may require the administrator to post an additional corporate surety bond for individual estates. The additional bonds shall bear the written approval of the judge requesting the additional bond.

(c) The county may choose to self-insure the public probate administrator for the minimum bond amount required by this section. Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. 1755), Sec. 2, eff. January 1, 2014.

Sec. 455.003. FUNDING OF PUBLIC PROBATE ADMINISTRATOR'S OFFICE. A public probate administrator is entitled to commissions under Subchapter A, Chapter 352, to be paid into the county treasury. The public probate administrator's office, including salaries, is funded, in part, by the commissions.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. 1755), Sec. 2, eff. January 1, 2014.

Sec. 455.004. POWERS AND DUTIES. (a) On receipt of notice

of a decedent for whose estate a personal representative has not been appointed and who has no known or suitable next of kin, the public probate administrator shall take prompt possession or control of the decedent's property located in the county that:

(1) is considered by the public probate administrator to be subject to loss, injury, waste, or misappropriation; or

(2) the court orders into the possession and control of the public probate administrator after notice to the public probate administrator.

(b) The public probate administrator is responsible for determining if the decedent has any heirs or a will and, if necessary, shall make burial arrangements with the appropriate county facility in charge of indigent burial if there are no known personal representatives.

(c) If the public probate administrator determines the decedent executed a will, the administrator shall file the will with the county clerk.

(d) The public probate administrator has all of the powers and duties of an administrator under this title.

(e) The public probate administrator may dispose of any unclaimed property by public auction or private sale, or donation to a charity, if appropriate.

(f) The statutory probate court judge or commissioners court may request accountings in addition to accountings otherwise required by this title.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. [1755](#)), Sec. 2, eff. January 1, 2014.

Sec. 455.005. INFORMING PUBLIC PROBATE ADMINISTRATOR. (a) If a public officer or employee knows of a decedent without known or suitable next of kin or knows of property of a decedent that is subject to loss, injury, waste, or misappropriation, the officer or employee may inform the public probate administrator of that fact.

(b) If a person dies in a hospital, mental health facility, or board and care facility without known or suitable next of kin, the person in charge of the hospital or facility may give immediate notice of that fact to the public probate administrator of the

county in which the hospital or facility is located.

(c) A funeral director in control of a decedent's remains may notify the public probate administrator if:

(1) none of the persons listed in Section 711.002, Health and Safety Code, can be found after a reasonable inquiry or contacted by reasonable means; or

(2) any of the persons listed in Section 711.002, Health and Safety Code, refuses to act.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. 1755), Sec. 2, eff. January 1, 2014.

Sec. 455.006. PUBLIC PROBATE ADMINISTRATOR'S INITIATION OF ADMINISTRATION. (a) The public probate administrator shall investigate a decedent's estate and circumstances to determine if the opening of an administration is necessary if the public probate administrator has reasonable cause to believe that the decedent found in the county or believed to be domiciled in the county in which the administrator is appointed does not have a personal representative appointed for the decedent's estate.

(b) The public probate administrator shall secure a decedent's estate or resolve any other circumstances related to a decedent, if, after the investigation, the public probate administrator determines that:

(1) the decedent has an estate that may be subject to loss, injury, waste, or misappropriation; or

(2) there are other circumstances relating to the decedent that require action by the public probate administrator.

(c) To establish reasonable cause under Subsection (a), the public probate administrator may require an information letter about the decedent that contains the following:

(1) the name, address, date of birth, and county of residence of the decedent;

(2) a description of the relationship between the interested person and the decedent;

(3) a statement of the suspected cause of death of the decedent;

(4) the names and telephone numbers of any known

friends or relatives of the decedent;

(5) a description of any known property of the decedent, including the estimated value of the property; and

(6) a statement of whether the property is subject to loss, injury, waste, or misappropriation.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. 1755), Sec. 2, eff. January 1, 2014.

Sec. 455.007. ACCESS TO INFORMATION. (a) A public probate administrator who has made an investigation under Section 455.006 may present to the statutory probate court judge a statement of the known facts relating to a decedent with a request for permission to take possession or control of property of the decedent and further investigate the matter.

(b) On presentation of a statement under Subsection (a), a statutory probate court judge may issue an order authorizing the public probate administrator to take possession or control of property under this chapter. A public probate administrator may record the order in any county in which property subject to the order is located.

(c) On presentation of an order issued under this section, a financial institution, governmental or private agency, retirement fund administrator, insurance company, licensed securities dealer, or any other person shall perform the following without requiring a death certificate or letters of administration and without inquiring into the truth of the order:

(1) provide the public probate administrator complete information concerning property held in the name of the decedent referenced in the order, without charge, including the names and addresses of any beneficiaries and any evidence of a beneficiary designation; and

(2) grant the public probate administrator access to a safe deposit box rented in the name of the decedent referenced in the order, without charge, for the purpose of inspection and removal of its contents.

(d) Costs and expenses incurred in drilling or forcing a safe deposit box open under Subsection (c) shall be paid by the

decedent's estate.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. 1755), Sec. 2, eff. January 1, 2014.

Sec. 455.008. SMALL ESTATES. (a) If gross assets of an estate do not exceed 20 percent of the maximum amount authorized for a small estate affidavit under Section 205.001, the public probate administrator may act without issuance of letters testamentary or of administration if the court approves a statement of administration stating:

- (1) the name and domicile of the decedent;
- (2) the date and place of death of the decedent; and
- (3) the name, address, and relationship of each known heir or devisee of the decedent.

(b) On approval of the statement of administration, the public probate administrator may:

- (1) take possession of, collect, manage, and secure the personal property of the decedent;
- (2) sell the decedent's personal property at private or public sale or auction, without a court order;
- (3) distribute personal property to the estate's personal representative if one is appointed after the statement of administration is filed;
- (4) distribute personal property to a distributee of the decedent who presents an affidavit complying with Chapter 205;
- (5) sell or abandon perishable property of the decedent if necessary to preserve the estate;
- (6) make necessary funeral arrangements for the decedent and pay reasonable funeral charges with estate assets;
- (7) distribute to a minor heir or devisee for whom a guardian has not been appointed the share of an intestate estate or a devise to which the heir or devisee is entitled; and
- (8) distribute allowances and exempt property as provided by this title.

(c) On the distribution of property and internment of the decedent under this section, the public probate administrator shall file with the clerk an affidavit, to be approved by the court,

detailing:

- (1) the property collected;
- (2) the property's distribution;
- (3) the cost of internment; and
- (4) the place of internment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. 1755), Sec. 2, eff. January 1, 2014.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 42, eff. September 1, 2019.

Sec. 455.009. SMALL ESTATE AFFIDAVIT. (a) If gross assets of an estate do not exceed the maximum amount authorized for a small estate affidavit under Section 205.001, the public probate administrator may file an affidavit that complies with Chapter 205 for approval by the statutory probate court judge.

(a-1) The public probate administrator may file the affidavit as provided by Subsection (a) after the public probate administrator has acted under Section 455.007 or 455.008.

(b) If the statutory probate court judge approves the affidavit, the affidavit:

(1) must be maintained or recorded as provided by Section 205.005; and

(2) has the effect described by Section 205.007.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. 1755), Sec. 2, eff. January 1, 2014.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 43, eff. September 1, 2019.

Sec. 455.010. GRANT OF ADMINISTRATION. (a) A public probate administrator shall file an application for letters of administration or administration with will annexed as provided by this title:

(1) if gross assets of an estate exceed the maximum amount authorized for a small estate affidavit under Section 205.001;

(2) if the property of the decedent cannot be disposed of using other methods detailed in this chapter; or

(3) at the discretion of the public probate administrator or on order of the statutory probate court judge.

(b) After issuance of letters of administration, the public probate administrator is considered a personal representative under this title and has all of the powers and duties of a personal representative under this title.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. 1755), Sec. 2, eff. January 1, 2014.

Sec. 455.011. WITHDRAWAL OF PUBLIC PROBATE ADMINISTRATOR AND APPOINTMENT OF SUCCESSOR. (a) If a public probate administrator has taken any action under Section 455.008, 455.009, or 455.010 and a qualified person more entitled to serve as a personal representative under Section 304.001 comes forward or a will of a decedent is found naming an executor, the public probate administrator may surrender the administration of the estate and the assets of the estate to the person once the person has qualified under this title.

(b) Before surrendering the administration of the estate, the public probate administrator must file a verified affidavit that shows fully and in detail:

(1) the condition of the estate;

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

(3) the amount of each claim that has been rejected and may be established later;

(4) the property of the estate in the administrator's possession; and

(5) any other facts that are necessary in determining the condition of the estate.

(c) The court may require any other filing from the public probate administrator that the court considers appropriate to fully show the condition of the estate before surrendering the estate under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. [1755](#)), Sec. 2, eff. January 1, 2014.

Sec. 455.012. DEPOSIT OF FUNDS IN COURT REGISTRY. The public probate administrator shall deposit all funds coming into the custody of the administrator in the court registry, except as provided by Section [455.003](#). Funds deposited must be disbursed at the direction of the public probate administrator and according to an order issued by the statutory probate court judge who appointed the administrator.

Added by Acts 2013, 83rd Leg., R.S., Ch. 671 (H.B. [1755](#)), Sec. 2, eff. January 1, 2014.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. [2782](#)), Sec. 44, eff. September 1, 2019.