

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE B. PROCEDURAL MATTERS

CHAPTER 55. COMPLAINTS AND CONTESTS

SUBCHAPTER A. CONTEST OF PROCEEDINGS IN PROBATE COURT

Sec. 55.001. OPPOSITION IN PROBATE PROCEEDING. A person interested in an estate may, at any time before the court decides an issue in a proceeding, file written opposition regarding the issue. The person is entitled to process for witnesses and evidence, and to be heard on the opposition, as in other suits.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 55.002. TRIAL BY JURY. In a contested probate or mental illness proceeding in a probate court, a party is entitled to a jury trial as in other civil actions.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

SUBCHAPTER B. INSTITUTION OF HIGHER EDUCATION OR CHARITABLE ORGANIZATION AS PARTY TO CERTAIN ACTIONS

Sec. 55.051. DEFINITION. In this subchapter, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 55.052. NECESSARY PARTY. An institution of higher education, a private institution of higher education, or a charitable organization that is a distributee under a will is a necessary party to a will contest or will construction suit involving the will.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 55.053. SERVICE OF PROCESS. (a) For a will contest, the party contesting the will shall serve an institution or organization that is a necessary party to the contest under Section 55.052 in the manner provided by this title for service on other parties.

(b) For a will construction suit, the party bringing the suit shall serve an institution or organization that is a necessary party to the suit under Section 55.052 in the manner provided by this title for service on other parties.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 244 (H.B. 1297), Sec. 1, eff. September 1, 2021.

SUBCHAPTER C. MENTAL CAPACITY OF DECEDENT

Sec. 55.101. ENTITLEMENT TO PRODUCTION OF COMMUNICATIONS AND RECORDS. Notwithstanding Subtitle B, Title 3, Occupations Code, a person who is a party to a will contest or proceeding in which a party relies on the mental or testamentary capacity of a decedent before the decedent's death as part of the party's claim or defense is entitled to production of all communications or records relevant to the decedent's condition before the decedent's death.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 55.102. RELEASE OF RECORDS. On receipt of a subpoena for communications or records described by Section 55.101 and a file-stamped copy of the will contest or proceeding described by that section, the appropriate physician, hospital, medical facility, custodian of records, or other person in possession of the communications or records shall release the communications or records to the requesting party without further authorization.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

SUBCHAPTER D. ATTACHMENT OF ESTATE PROPERTY

Sec. 55.151. ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT. (a) If a person interested in an estate files with the judge a written complaint made under oath alleging that the executor or administrator of the estate is about to remove the estate or part of the estate outside of the state, the judge may order a writ of attachment to issue, directed "to any sheriff or any constable within the State of Texas." The writ must order the sheriff or constable to:

- (1) seize the estate or a part of the estate; and
- (2) hold that property subject to the judge's additional orders regarding the complaint.

(b) Notwithstanding Subsection (a), a writ of attachment directed to the sheriff or constable of a specific county within the state is not defective if the writ was properly executed in that county by that officer.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 55.152. BOND. Before a writ of attachment ordered under Section 55.151 may be issued, the complainant must execute a bond that is:

- (1) payable to the executor or administrator of the estate;
- (2) in an amount set by the judge; and
- (3) conditioned for the payment of all damages and costs that are recovered for the wrongful suing out of the writ.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

SUBCHAPTER E. SPECIFIC PERFORMANCE OF AGREEMENT TO TRANSFER TITLE

Sec. 55.201. COMPLAINT AND CITATION. (a) If a person sold property and entered into a bond or other written agreement to transfer title to the property and then died without transferring

the title, the owner of the bond or agreement or the owner's legal representative may:

(1) file a written complaint in the court of the county in which letters testamentary or of administration on the decedent's estate were granted; and

(2) have the personal representative of the estate cited to appear on a date stated in the citation and show cause why specific performance of the bond or agreement should not be ordered.

(b) Except as provided by Subsection (c), the bond or agreement must be filed with the complaint described by Subsection (a).

(c) If good cause under oath is shown why the bond or written agreement cannot be filed with the complaint, the bond or agreement or the substance of the bond or agreement must be stated in the complaint.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 55.202. HEARING AND ORDER. (a) After service of the citation under Section 55.201, the court shall hear the complaint and the evidence on the complaint.

(b) The court shall order the personal representative to transfer title to the property, according to the tenor of the bond or agreement, to the complainant if the judge is satisfied from the proof that:

(1) the bond or agreement was legally executed by the decedent; and

(2) the complainant has a right to demand specific performance.

(c) The order must fully describe the property to be transferred.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Sec. 55.203. CONVEYANCE. (a) A conveyance made under this subchapter must refer to and identify the court order authorizing

the conveyance. On delivery of the conveyance, all the right and title to the property conveyed that the decedent had vests in the person to whom the conveyance is made.

(b) A conveyance under this subchapter is prima facie evidence that all requirements of the law for obtaining the conveyance have been complied with.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

SUBCHAPTER F. BILL OF REVIEW

Sec. 55.251. REVISION AND CORRECTION OF ORDER OR JUDGMENT IN PROBATE PROCEEDING. (a) An interested person may, by a bill of review filed in the court in which the probate proceedings were held, have an order or judgment rendered by the court revised and corrected on a showing of error in the order or judgment, as applicable.

(b) A bill of review to revise and correct an order or judgment may not be filed more than two years after the date of the order or judgment, as applicable.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 8.002, eff. January 1, 2014.

Sec. 55.252. INJUNCTION. A process or action under a court order or judgment subject to a bill of review filed under Section 55.251 may be stayed only by writ of injunction.

Added by Acts 2009, 81st Leg., R.S., Ch. 680, Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 8.003, eff. January 1, 2014.