

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.3401 Formal testacy proceedings; nature; commencement.

Sec. 3401. (1) A formal testacy proceeding is litigation to determine whether a decedent left a valid will. An interested person or a person that has a right or cause of action that cannot be enforced without administration may commence a formal testacy proceeding by filing 1 of the following:

(a) A petition described in section 3402(1) in which the petitioner requests that after notice and hearing, the court enter an order probating a will.

(b) A petition to set aside a will's informal probate or to prevent a will's informal probate that is the subject of a pending application.

(c) A petition in accordance with section 3402(2) for an order that the decedent died intestate.

(2) A petitioner may seek formal probate of a will without regard to whether the same or a conflicting will has been informally probated. A formal testacy proceeding may, but need not, involve a request for appointment of a personal representative.

(3) During the pendency of a formal testacy proceeding, the register shall not act upon an application for informal probate of a will of the decedent or an application for informal appointment of a personal representative of the decedent.

(4) Unless a petition in a formal testacy proceeding also requests confirmation of the previous informal appointment, after receipt of notice of the commencement of a formal probate proceeding, a previously appointed personal representative shall refrain from exercising the power to make any further distribution of the estate during the pendency of the formal proceeding. A petitioner who seeks the appointment of a different personal representative in a formal proceeding may also request an order restraining the acting personal representative from exercising that office's powers and may request the appointment of a special personal representative. In the absence of a request under this subsection or if the request is denied, the commencement of a formal proceeding has no effect on the powers and duties of a previously appointed personal representative other than those relating to distribution.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000.

Popular name: EPIC