

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

700.3412 Formal testacy proceedings; effect of order; vacation.

Sec. 3412. (1) Subject to appeal and subject to vacation as provided in this section and section 3413, a formal testacy order under sections 3409 to 3411, including an order that the decedent did not leave a valid will and that determines heirs, is final as to all persons with respect to all issues concerning the decedent's estate that the court considered or might have considered incident to its rendition relevant to the question of whether the decedent left a valid will and to the determination of heirs, except that:

(a) The court shall entertain a petition for modification or vacation of its order and probate of another will of the decedent if it is shown that the proponents of the later-offered will were unaware of that will's existence at the time of the earlier proceeding, or were unaware of the earlier proceeding and were given no notice of it, except by publication.

(b) If intestacy of all or part of the estate has been ordered, the determination of the decedent's heirs may be reconsidered if it is shown that an individual was omitted from the determination and that the omitted individual was unaware of his or her relationship to the decedent, was unaware of the decedent's death, or was not given notice of any proceeding concerning the decedent's estate, except by publication.

(2) A petition for vacation filed under subsection (1) shall be filed before the earlier of the following time limits:

(a) If a personal representative is appointed for the estate, the time of entry of an order approving final distribution of the estate or, if the estate is closed by statement, 6 months after the filing of the closing statement.

(b) One year after the entry of the order sought to be vacated.

(3) The order originally rendered in the testacy proceeding may be modified or vacated, if appropriate under the circumstances, by the order of probate of the later-offered will or the order redetermining heirs.

(4) The finding of the fact of death is conclusive as to the alleged decedent only if notice of the hearing on the petition in the formal testacy proceeding was sent by registered or certified mail addressed to the alleged decedent at his or her last known address and the court finds that a search was made as required by section 3403.

(5) If the alleged decedent is not dead, even if notice was sent and the search was made, the alleged decedent may recover estate assets in the hands of the personal representative. In addition to any remedies available to the alleged decedent by reason of any fraud or intentional wrongdoing, the alleged decedent may recover any estate or its proceeds from distributees that is in their hands, or the value of distributions received by them, to the extent that any recovery from distributees is equitable in view of all of the circumstances.

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