

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

700.3414 Formal proceeding concerning appointment of personal representative.

Sec. 3414. (1) An interested person or a person that has a right or cause of action that cannot be enforced without appointment may file a petition for a formal proceeding regarding the priority or qualification of a prospective or appointed personal representative.

(2) If an issue concerning the decedent's testacy is or may be involved, a formal proceeding for adjudication regarding the priority or qualification of an individual who is seeking appointment as personal representative or who was previously appointed personal representative in informal proceedings is governed by this section and section 3402. In other cases, the petition must include or adopt the statements required by section 3301(1)(a) and must describe the question relating to the personal representative's priority or qualification that is to be resolved.

(3) If a formal proceeding precedes the appointment of a personal representative, the formal proceeding stays an informal appointment proceeding that is pending or that is commenced after the formal proceeding's commencement. If the formal proceeding is commenced after the appointment of a personal representative and after the personal representative receives notice of the commencement, the personal representative shall not exercise a power of administration except as necessary to preserve the estate or unless the court orders otherwise.

(4) After notice to interested persons, including all persons interested in the administration of the estate as successors under the applicable assumption concerning testacy, a previously appointed personal representative, a person having or claiming priority for appointment as personal representative, and any other person described in section 3403(1) or (2), the court shall determine who is entitled to appointment under section 3203, make a proper appointment, and, if appropriate, terminate a prior appointment found to be improper as provided in cases of removal under section 3611.

(5) If the state or county public administrator is seeking appointment as personal representative and the state or county public administrator has knowledge that the decedent's real property has delinquent property taxes on it or is subject to a mortgage foreclosure, all of the following apply:

(a) In addition to any other notice required under this act, the petitioner shall give notice of hearing to the decedent's heirs in the manner prescribed by section 1401. The petitioner shall also post the notice of hearing and the state court administrative office form to challenge the petition on the decedent's real property. A notice required under this subdivision must be in a form approved by the supreme court and must include all of the following information:

(i) A statement describing why the heir is receiving the notice.

(ii) That the heir may object to the petitioner's appointment.

(iii) That the heir may petition the court for a court hearing on any matter, including, but not limited to, any of the following:

(A) A petition for removal of a personal representative for cause under section 3611, at any time during the estate's administration.

(B) A petition for the heir to be appointed personal representative.

(b) The petition must include a statement that details the petitioner's reasonable search for the decedent's heirs, including, but not limited to, an internet search.

(6) A state or county public administrator who intentionally fails to provide the notices required under subsection (5) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000;—Am. 2018, Act 13, Eff. May 7, 2018.

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