

By: Zaffirini

S.B. No. 2249

A BILL TO BE ENTITLED

AN ACT

relating to decedents' estates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 306.007, Estates Code, is amended to read as follows:

Sec. 306.007. EFFECT OF LETTERS ~~[OR CERTIFICATE]~~. Letters testamentary or of administration issued under the court's seal by ~~[or a certificate of]~~ the clerk of the court that granted the letters are ~~[, under the court's seal, indicating that the letters have been issued, is]~~ sufficient evidence of:

(1) the appointment and qualification of the personal representative of an estate; and

(2) the date of qualification.

SECTION 2. Section 361.052, Estates Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The court may remove a personal representative as provided by Subsection (a-1) ~~[on the court's own motion, or on the complaint of any interested person, after the representative has been cited by personal service to answer at a time and place set in the notice,]~~ if:

(1) sufficient grounds appear to support a belief that the representative has misapplied, embezzled, or removed from the state, or is about to misapply, embezzle, or remove from the state,

1 all or part of the property entrusted to the representative's care;

2 (2) the representative fails to return any account
3 required by law to be made;

4 (3) the representative fails to obey a proper order of
5 the court that has jurisdiction with respect to the performance of
6 the representative's duties;

7 (4) the representative is proved to have been guilty
8 of gross misconduct, or mismanagement in the performance of the
9 representative's duties;

10 (5) the representative:

11 (A) becomes incapacitated;

12 (B) is sentenced to the penitentiary; or

13 (C) from any other cause, becomes incapable of
14 properly performing the duties of the representative's trust; or

15 (6) the representative, as executor or administrator,
16 fails to make a final settlement by the third anniversary of the
17 date letters testamentary or of administration are granted, unless
18 that period is extended by the court on a showing of sufficient
19 cause supported by oath.

20 (a-1) The court may remove a personal representative for a
21 reason described by Subsection (a) on:

22 (1) the court's own motion, after the personal
23 representative has been notified by certified mail, return receipt
24 requested, to answer at a time and place set in the notice; or

25 (2) the complaint of an interested person, after the
26 personal representative has been cited by personal service to
27 answer at a time and place set in the notice.

1 SECTION 3. Section 362.012, Estates Code, is amended to
2 read as follows:

3 Sec. 362.012. DISCHARGE OF PERSONAL REPRESENTATIVE AND BOND
4 SURETIES WHEN NO ESTATE PROPERTY REMAINS; CANCELLATION OF LETTERS.

5 If, on final settlement of the estate, none of the estate remains in
6 the representative's possession, the [The] court shall enter an
7 order:

8 (1) discharging a personal representative from the
9 representative's trust;

10 (2) canceling the letters issued to the personal
11 representative;

12 (3) discharging and releasing the sureties on the
13 personal representative's bond, if applicable; and

14 (4) closing the estate [if, on final settlement of the
15 estate, none of the estate remains in the representative's
16 possession].

17 SECTION 4. Section 362.013, Estates Code, is amended to
18 read as follows:

19 Sec. 362.013. DISCHARGE OF PERSONAL REPRESENTATIVE AND BOND
20 SURETIES WHEN ESTATE FULLY ADMINISTERED; CANCELLATION OF LETTERS.

21 (a) The court shall enter an order specifying the actions described
22 by Sections 362.012(1), (2), and (3) [~~discharging a personal~~
23 representative from the representative's trust] and declaring the
24 estate closed when:

25 (1) the representative has fully administered the
26 estate in accordance with this title and the court's orders;

27 (2) the representative's account for final settlement

1 has been approved; and

2 (3) the representative has:

3 (A) delivered all of the estate remaining in the
4 representative's possession to the person or persons entitled to
5 receive that part of the estate; and

6 (B) with respect to the portion of the estate
7 distributable to an unknown or missing person, complied with an
8 order of the court under Section 362.011.

9 SECTION 5. Section 405.001(c), Estates Code, is amended to
10 read as follows:

11 (c) If all the property in the estate is ordered distributed
12 by the court and the estate is fully administered, the court may
13 also order the independent executor to file a final account with the
14 court and may enter an order closing the administration, canceling
15 the letters issued to the personal representative, and terminating
16 the power of the personal representative [~~independent executor~~] to
17 act as independent executor or independent administrator.

18 SECTION 6. Section 405.007(b), Estates Code, is amended to
19 read as follows:

20 (b) The closing of an independent administration by filing
21 of a closing report or notice of closing estate terminates the power
22 and authority of the independent executor, including the
23 independent administrator, and cancels the letters issued to the
24 personal representative, but does not relieve the independent
25 executor or administrator, as applicable, from liability for any
26 mismanagement of the estate or from liability for any false
27 statements contained in the report or notice.

1 SECTION 7. Section 405.009(a), Estates Code, is amended to
2 read as follows:

3 (a) At any time after an estate has been fully administered
4 and there is no further need for an independent administration of
5 the estate, any distributee may file an application to close the
6 administration; and, after citation on the independent
7 administrator or other independent executor, as applicable, and on
8 hearing, the court may enter an order:

9 (1) requiring the independent executor to file a
10 closing report meeting the requirements of Section 405.005;

11 (2) closing the administration;

12 (3) terminating the power of the personal
13 representative [~~independent executor~~] to act as independent
14 executor or administrator, as applicable, and canceling the letters
15 issued to the personal representative; and

16 (4) releasing the sureties on any bond the independent
17 executor, including the independent administrator, was required to
18 give from all liability for the future acts of the principal.

19 SECTION 8. Section 361.052, Estates Code, as amended by
20 this Act, applies only to a motion made by a court or a complaint
21 made by an interested person on or after the effective date of this
22 Act. A motion made by a court or a complaint made by an interested
23 person before the effective date of this Act is governed by the law
24 in effect on the date the motion or complaint was made, and the
25 former law is continued in effect for that purpose.

26 SECTION 9. This Act takes effect September 1, 2023.