

BILL ANALYSIS

Senate Research Center
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S.B. 1335
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently the Estates Code uses the term "certificate" in a way that creates unnecessary confusion. Typically the authority of an estate's personal representative is documented through "letters"—either letters testamentary or letters of administration. The code's references to "certificate," however, suggest the possibility of a separate document issued by the clerk to confirm prior issuance of letters. This could lead to legal misunderstandings, particularly in cases in which the estate has been closed or the personal representative has been removed.

What's more, removing a personal representative from his or her role—due to mismanagement, non-compliance with court orders, incapacity, or failure to settle—requires personal service of legal notice. This involves directly delivering the summons or notice to the individual, a process that is both time-consuming and resource-intensive, regardless of whether the removal is initiated by the court or a concerned party.

The Estates Code also lacks clear procedures for revoking letters (testamentary or of administration) and releasing sureties on a personal representative's bond. Without a defined process for canceling letters, sureties may remain indefinitely liable for the personal representative's actions. This ambiguity complicates estate settlement, creates administrative delays, and risks continued recognition of the representative's authority by third parties, even after their roles should have ended.

S.B. 1335 proposes practical reforms to address these issues and improve the efficiency of estate administration. First, the bill would eliminate the use of "certificate" as an alternative to "letters," removing outdated language and clarifying that "letters" are the sole authoritative documentation for a personal representative's appointment. This change would ensure consistency and reduce confusion for all involved parties.

Second, the bill would allow courts to remove a personal representative by court order, with notice served via certified mail rather than personal service. This adjustment would streamline the removal process, reduce resource burdens, and help resolve estates more efficiently.

Finally, the bill would expand relevant sections of the code to include "independent administrators" alongside "independent executors." By ensuring uniform rules apply to all types of personal representatives, the bill promotes fairness and simplifies the legal framework for estate administration.

Together these reforms would modernize the Estates Code, minimize confusion, and expedite the resolution of estates for the benefit of courts, families, and third parties alike.

As proposed, S.B. 1335 amends current law relating to decedents' estates.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 306.007, Estates Code, as follows:

Sec. 306.007. New heading: EFFECT OF LETTERS. Provides that letters testamentary or of administration issued under the court's seal by the clerk of the court that granted the letters are sufficient evidence of the appointment and qualification of the personal representative of an estate and the date of qualification.

Deletes existing text providing that letters testamentary or of administration or a certificate of the clerk of the court that granted the letters, under the court's seal, indicating that the letters have been issued, is sufficient evidence of the appointment and qualification of the personal representative of an estate and the date of qualification.

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

(a) Authorizes the court to remove a personal representative as provided by Subsection (a-1) if certain conditions are met.

Deletes existing text authorizing the court to remove a personal representative 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 certain conditions are met.

(a-1) Authorizes the court to remove a personal representative for a reason described by Subsection (a) on the court's own motion, after the personal representative has been notified by certified mail, return receipt requested, to answer at a time and place set in the notice, or the complaint of an interested person, after the personal representative has been cited by personal service to answer at a time and place set in the notice.

SECTION 3. Amends Section 362.012, Estates Code, as follows:

Sec. 362.012. New heading: DISCHARGE OF PERSONAL REPRESENTATIVE AND BOND SURETIES WHEN NO ESTATE PROPERTY REMAINS; CANCELLATION OF LETTERS. Requires the court, if, on final settlement of the estate, none of the estate remains in the representative's possession, to enter an order:

- (1) creates this subdivision from existing text and makes a nonsubstantive change;
- (2) canceling the letters issued to the personal representative;
- (3) discharging and releasing the sureties on the personal representative's bond, if applicable; and
- (4) creates this subdivision from existing text.

Deletes existing text requiring the court to enter an order discharging a personal representative from the representative's trust and closing the estate if, on final settlement of the estate, none of the estate remains in the representative's possession.

SECTION 4. Amends Section 362.013, Estates Code, as follows:

Sec. 362.013. New heading: DISCHARGE OF PERSONAL REPRESENTATIVE AND BOND SURETIES WHEN ESTATE FULLY ADMINISTERED; CANCELLATION OF LETTERS. (a) Requires the court to enter an order specifying the actions described by Sections 362.012(1) (relating to an order discharging a personal representative from the representative's trust), (2), and (3) and declaring the estate closed when certain conditions are met.

Deletes existing text requiring the court to enter an order discharging a personal representative from the representative's trust and declaring the estate closed when certain conditions are met.

SECTION 5. Amends Section 405.001(c), Estates Code, as follows:

(c) Authorizes the court, if all the property in the estate is ordered distributed by the court and the estate is fully administered, to also order the independent executor to file a final account with the court and to enter an order closing the administration, canceling the letters issued to the personal representative, and terminating the power of the personal representative, rather than independent executor, to act as independent executor or independent administrator.

SECTION 6. Amends Section 405.007(b), estates Code, as follows:

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

SECTION 7. Amends Section 405.009(a), Estates Code, as follows:

(a) Authorizes any distributee, at any time after an estate has been fully administered and there is no further need for an independent administration of the estate, to file an application to close the administration; and authorizes the court, after citation on the independent administrator or other independent executor, as applicable, and on hearing, to enter an order:

(1)-(2) makes no changes to these subdivisions;

(3) terminating the power of the personal representative, rather than independent executor, to act as independent executor or administrator, as applicable, and canceling the letters issued to the personal representative; and

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

SECTION 8. Makes application of Section 361.052, Estates Code, as amended by this Act, prospective.

SECTION 9. Effective date: September 1, 2025.