

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE G. INITIAL APPOINTMENT OF PERSONAL REPRESENTATIVE AND
OPENING OF ADMINISTRATION

CHAPTER 306. GRANTING AND

ISSUANCE OF LETTERS

Sec. 306.001. GRANTING OF LETTERS TESTAMENTARY. (a) Before the 21st day after the date a will has been probated, the court shall grant letters testamentary, if permitted by law, to each executor appointed by the will who:

(1) is not disqualified; and

(2) is willing to accept the trust and qualify according to law.

(b) Failure of the court to issue letters testamentary within the period prescribed by this section does not affect the validity of any letters testamentary issued in accordance with law after that period.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 306.002. GRANTING OF LETTERS OF ADMINISTRATION. (a) Subject to Subsection (b), the court hearing an application under Chapter 301 shall grant:

(1) the administration of a decedent's estate if the decedent died intestate; or

(2) the administration of the decedent's estate with the will annexed if the decedent died leaving a will but:

(A) the will does not name an executor; or

(B) the executor named in the will:

(i) is deceased;

(ii) fails to accept and qualify before the 21st day after the date the will is probated; or

(iii) fails to present the will for probate before the 31st day after the date of the decedent's death and the court finds there was no good cause for that failure.

(b) The court may not grant any administration of an estate

unless a necessity for the administration exists, as determined by the court.

(c) The court may find other instances of necessity for an administration based on proof before the court, but a necessity is considered to exist if:

- (1) there are two or more debts against the estate;
- (2) there is a desire for the county court to partition the estate among the distributees;
- (3) the administration is necessary to receive or recover funds or other property due the estate; or
- (4) the administration is necessary to prevent real property in a decedent's estate from becoming a danger to the health, safety, or welfare of the general public.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 576 (H.B. 3160), Sec. 3, eff. September 1, 2015.

Sec. 306.003. ORDER GRANTING LETTERS. When letters testamentary or of administration are granted, the court shall enter an order to that effect stating:

- (1) the name of the decedent;
- (2) the name of the person to whom the letters are granted;
- (3) the amount of any required bond;
- (4) the name of at least one but not more than three disinterested persons appointed to appraise the estate and return the appraisement to the court, if:

(A) any interested person applies to the court for the appointment of an appraiser; or

(B) the court considers an appraisement to be necessary; and

- (5) that the clerk shall issue letters in accordance with the order when the person to whom the letters are granted has qualified according to law.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1,

eff. January 1, 2014.

Sec. 306.004. ISSUANCE OF ORIGINAL LETTERS. When an executor or administrator has qualified in the manner required by law, the clerk of the court granting the letters testamentary or of administration shall promptly issue and deliver the letters to the executor or administrator. If more than one person qualifies as executor or administrator, the clerk shall issue the letters to each person who qualifies.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 306.005. FORM AND CONTENT OF LETTERS. Letters testamentary or of administration shall be in the form of a certificate of the clerk of the court granting the letters, attested by the court's seal, that states:

(1) the executor or administrator, as applicable, has qualified as executor or administrator in the manner required by law;

(2) the date of the qualification; and

(3) the name of the decedent.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 306.006. REPLACEMENT AND OTHER ADDITIONAL LETTERS. When letters testamentary or of administration have been destroyed or lost, the clerk shall issue other letters to replace the original letters, which have the same effect as the original letters. The clerk shall also issue any number of letters as and when requested by the person or persons who hold the letters.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 306.007. EFFECT OF LETTERS OR CERTIFICATE. 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:

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

(2) the date of qualification.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. [2502](#)), Sec. 1, eff. January 1, 2014.