

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE H. CONTINUATION OF ADMINISTRATION

CHAPTER 352. COMPENSATION AND EXPENSES OF PERSONAL REPRESENTATIVES  
AND OTHERS

SUBCHAPTER A. COMPENSATION OF PERSONAL REPRESENTATIVES

Sec. 352.001. DEFINITION. In this subchapter, "financial institution" means an organization authorized to engage in business under state or federal laws relating to financial institutions, including:

- (1) a bank;
- (2) a trust company;
- (3) a savings bank;
- (4) a building and loan association;
- (5) a savings and loan company or association; and
- (6) a credit union.

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

Sec. 352.002. STANDARD COMPENSATION. (a) An executor, administrator, or temporary administrator a court finds to have taken care of and managed an estate in compliance with the standards of this title is entitled to receive a five percent commission on all amounts that the executor or administrator actually receives or pays out in cash in the administration of the estate.

(b) The commission described by Subsection (a):

(1) may not exceed, in the aggregate, more than five percent of the gross fair market value of the estate subject to administration; and

(2) is not allowed for:

(A) receiving funds belonging to the testator or intestate that were, at the time of the testator's or intestate's death, either on hand or held for the testator or intestate in a financial institution or a brokerage firm, including cash or a cash equivalent held in a checking account, savings account, certificate

of deposit, or money market account;

(B) collecting the proceeds of a life insurance policy; or

(C) paying out cash to an heir or legatee in that person's capacity as an heir or legatee.

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

Sec. 352.003. ALTERNATE COMPENSATION. (a) The court may allow an executor, administrator, or temporary administrator reasonable compensation for the executor's or administrator's services, including unusual efforts to collect funds or life insurance, if:

(1) the executor or administrator manages a farm, ranch, factory, or other business of the estate; or

(2) the compensation calculated under Section 352.002 is unreasonably low.

(b) The county court has jurisdiction to receive, consider, and act on applications from independent executors for purposes of this section.

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

Sec. 352.004. DENIAL OF COMPENSATION. The court may, on application of an interested person or on the court's own motion, wholly or partly deny a commission allowed by this subchapter if:

(1) the court finds that the executor or administrator has not taken care of and managed estate property prudently; or

(2) the executor or administrator has been removed under Section 404.003 or Subchapter B, Chapter 361.

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1338 (S.B. 1198), Sec. 2.45, eff. January 1, 2014.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 6.013, eff. January 1, 2014.

SUBCHAPTER B. EXPENSES OF PERSONAL REPRESENTATIVES AND OTHERS

Sec. 352.051. EXPENSES; ATTORNEY'S FEES. On proof satisfactory to the court, a personal representative of an estate is entitled to:

(1) necessary and reasonable expenses incurred by the representative in:

(A) preserving, safekeeping, and managing the estate;

(B) collecting or attempting to collect claims or debts; and

(C) recovering or attempting to recover property to which the estate has a title or claim; and

(2) reasonable attorney's fees necessarily incurred in connection with the proceedings and management of the estate.

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

Sec. 352.052. ALLOWANCE FOR DEFENSE OR SUCCESSFUL CONTEST OF WILL. (a) A person designated as executor in a will or an alleged will, or as administrator with the will or alleged will annexed, who, for the purpose of having the will or alleged will admitted to probate, defends the will or alleged will or prosecutes any proceeding in good faith and with just cause, whether or not successful, shall be allowed out of the estate the executor's or administrator's necessary expenses and disbursements in those proceedings, including reasonable attorney's fees.

(b) A person designated as a devisee in or beneficiary of a will or an alleged will who, for the purpose of having the will or alleged will admitted to probate, defends the will or alleged will or prosecutes any proceeding in good faith and with just cause, whether or not successful, may be allowed out of the estate the person's necessary expenses and disbursements in those proceedings, including reasonable attorney's fees.

(c) In this subsection, "interested person" does not include a creditor or any other having a claim against the estate.

An interested person who, in good faith and with just cause, successfully prosecutes a proceeding to contest the validity of a will or alleged will offered for or admitted to probate may be allowed out of the estate the person's necessary expenses and disbursements in that proceeding, including reasonable attorney's fees.

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. 949 (S.B. 995), Sec. 34, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 24, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1141 (H.B. 2782), Sec. 25, eff. September 1, 2019.

Sec. 352.053. EXPENSE CHARGES. (a) The court shall act on expense charges in the same manner as other claims against the estate.

(b) All expense charges shall be:

(1) made in writing, showing specifically each item of expense and the date of the expense;

(2) verified by the personal representative's affidavit;

(3) filed with the clerk; and

(4) entered on the claim docket.

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