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**GENERAL PROVISIONS**

**SECTION 151.003 Order of priority for payment of devises.** The property of a testator, except as otherwise provided in this title, must be resorted to for the payment of devises in the following order:

1. The property which is expressly appropriated by the will for the specific devise.
2. Property not disposed of by the will.
3. Property which is devised to a residuary devisee.

**AGREEMENTS**

**SECTION 151.005 Agreement by distributees to alter interests, shares or amounts to which they are otherwise entitled under terms of will: Requirements; exceptions; personal representative to abide by terms.**

Subject to the rights of creditors and taxing authorities, distributees may agree among themselves to alter the interests, shares or amounts to which they are entitled under the terms of the will of the decedent, or under the laws of intestacy, in any way that they provide in a written agreement executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to his obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of the office for the benefit of any distributees of the decedent who are not parties. Personal representatives of the estate of decedents are not required to oversee the performance of trusts if the trustee thereof is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are distributees for the purposes of this section. This section does not relieve trustees of any duties owed to beneficiaries of trusts.

**PARTIAL DISTRIBUTION**

**SECTION 151.010 Petition for partial distribution; bond.**

1. At any time after the lapse of 3 months from the issuing of letters, the personal representative or any heir or devisee, or the assignee, grantee or successor in interest of any heir or devisee, may petition the court to distribute a share of the estate, or any portion thereof, to any person entitled thereto, upon the person giving a bond, with approved security, for the payment of the person's proportion of the debts of the estate.

2. The court may dispense with a bond if it is made to appear that the bond is unnecessary.

**SECTION 151.020 Petition for hearing and notice of hearing.** The clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in [SECTION 155.010](#).

**SECTION 151.030 Contest of petition.** The personal representative, if not the petitioner, or an interested person, may object to the petition, or an heir or devisee may submit a similar petition.

**SECTION 151.040 Order for distribution: Prerequisites to order; bond; assumption of personal liability by heir or devisee.**

1. Subject to the provisions of subsection 3, if it appears at the hearing that the estate has little debt and that the share or shares of the party or parties petitioning may be allowed without injury to the creditors of the estate, the court shall enter an order in conformity with the request of the petitioner or petitioners.

2. The order may direct the personal representative to deliver to the petitioner or petitioners the whole portion of the estate to which each is entitled, or a part of the portion, if there is sufficient property remaining in the estate to satisfy the debts or if there is filed with the court an assumption of liability for a contingent or disputed debt as provided in subsection 3. The court may impose any other conditions it determines are just, including a requirement that a distributee give a security interest in all or part of the property distributed or give bond in an amount determined by the court. The bond must be payable to the personal representative and conditioned for the payment by the distributee, whenever required, of his proportion of the debts of the estate.

3. As a condition of an order under subsection 2, if directed by the court, each heir or devisee shall file with the court a signed and acknowledged agreement assuming personal liability for the contingent or disputed debt and consenting to jurisdiction in this Reservation or State for the enforcement of the debt if it becomes absolute or established. The personal liability of each heir or devisee does not exceed the fair market value on the date of distribution of the property distributed less the amount of any liens or encumbrances. If there is more than one heir or devisee, their personal liability is joint and several.

**SECTION 151.050 Order of repayment: Action on bond or other security; action against distributee if no bond or other security given.**

1. If a bond or other security has been executed and delivered as prescribed in [SECTION 151.040](#), and the personal representative ascertains that it is necessary for the settlement of the estate to require the payment of any part of the money thereby secured, he shall petition the court for an order requiring the payment and cause a citation to be issued and served upon the parties bound, requiring them, at a time and place, not more than 10 days after the date of the citation, to be stated therein, to appear and show cause why the order should not be made.

2. The court, if satisfied of the necessity for the payment to be made, shall enter an order designating the amount and giving a time in which it shall be paid.

3. If the money is not paid within the time allowed, an action may be maintained by the personal representative on the bond or other security.

4. Similar proceedings may be initiated against an heir or devisee if no bond or other security is given.

**SECTION 151.060 Partition when partial distribution ordered.** If, in the execution of the order, partition is necessary between two or more of the parties, it must be made in the manner prescribed in [chapter 152](#).

**SECTION 151.070 Costs.** The costs of proceedings for a partial distribution must be paid by the heir or devisee or, if there are more than one, must be prorated among them.

**FINAL DISTRIBUTION**

**SECTION 151.080 Petition for final distribution.**

1. If a personal representative files his final account with a petition requesting the allowance and confirmation thereof, he may also include in the petition a request for the distribution of the estate. Upon the settlement and allowance of the final account, the court may also order a distribution of the residue of the estate, if any, among the persons who are by law entitled thereto.

2. If a final account is settled and allowed without an order of distribution, the personal representative, or an heir or devisee, or an assignee or grantee of an heir or devisee, at any time thereafter, may petition the court for an order distributing the estate.

**SECTION 151.090 Notice of hearing of petition.**

1. When a petition for final distribution is filed, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in [SECTION 155.010](#).

2. The court may order such further notice as it deems proper.

**SECTION 151.095 Manner of distribution; distribution without proration.**

1. Except as otherwise provided in subsection 2 or in the will, a personal representative may distribute property and money:

- (a) In divided or undivided interests; and
- (b) With or without proration.

2. Each affected beneficiary must agree before any property or money is distributed without proration, unless the will authorizes a personal representative to distribute property and money without proration.

**SECTION 151.110 Order and distribution; recording of copy of order conveying real property.**

1. After the accounts of a personal representative have been settled and an order for the distribution of the estate entered by the court, the personal representative shall, without any unnecessary delay, distribute the estate remaining undistributed as directed by the order.

2. In the order, the court shall name the persons and the proportion or parts to which each is entitled, and that person has the right to demand and recover a respective share from the personal representative or any other person having possession of it.

3. The personal representative shall, within 10 days after the entry of an order of distribution conveying any real property, record a certified copy of the order with the county recorder of the county in which the order was entered and of any other county in which the real property, or any portion of it, is located.

**ADVANCEMENTS, SATISFACTION OF TESTAMENTARY GIFTS, ADEPTIONS AND ABATEMENT**

**SECTION 151.120 When gift before death not deemed advancement.** No gift or grant shall be deemed to have been made as an advancement unless:

- 1. So expressed in the gift or grant;
- 2. Charged in writing by the decedent as an advancement; or
- 3. Acknowledged in writing by the donee to be such.

**SECTION 151.130 Computation of share of estate if heir or devisee received advancement.**

1. Any property given by a decedent during the lifetime of the decedent as an advancement to a donee must be considered as part of the estate for the sole purpose of computing the respective shares of the distributees and must be taken by the donee toward his share of the estate of the decedent.

2. If the amount of the advancement exceeds the share of the heir or devisee so advanced, the heir or devisee is excluded from any further portion in the distribution and division of the estate, but he is not required to refund any part of the advancement. If the amount so received is less than his share, he is entitled to as much more as will give him his full share of the estate of the decedent.

**SECTION 151.140 Value of property advanced.** If the value of the advancement is expressed in the conveyance, or in the charge thereof made by the decedent, or in the acknowledgment of the person receiving it, that value must be used in the distribution and division of the estate. Otherwise, the value must be estimated according to its value when given, as nearly as can be ascertained.

**SECTION 151.150 Predeceased heir or devisee.** If a child or other lineal descendant so advanced dies before the person making the advancement, leaving issue, the advancement must be taken into consideration in the distribution and division of the estate as if the advancement had been made directly to the issue.

**SECTION 151.160 Determination of questions as to advancements.** All questions as to advancements made, or alleged to have been made, by a decedent to heirs or devisees may be heard and determined by the court, and must be specified in the order distributing the estate, and in the warrant to the commissioners provided for in [SECTION 152.050](#), and the final order of the court is binding on all interested persons, subject to the right of any party to appeal from a final order.

**SECTION 151.161 When gift before death not deemed satisfaction of testamentary gift.** No gift or grant by the decedent shall be deemed to have been made as satisfaction of a testamentary gift unless:

1. So expressed in the instrument providing for the gift or grant;
2. Charged in a writing by the decedent as partial or complete satisfaction of a testamentary gift; or
3. Acknowledged in writing by the donee to be such.

**SECTION 151.162 Value of gift in satisfaction of testamentary gift.** If the value of the gift is expressed in the instrument providing for the gift or grant, or in a writing of the decedent, or in an acknowledgment of the donee, that value must be used in the distribution and division of the estate. Otherwise, the gift or grant must be valued as of the time the donee came into possession or enjoyment of the property or as of the time of death of the decedent, whichever occurs first.

**SECTION 151.163 Effect of abatement.** Unless a different intention is expressed in the will, abatement takes place in any class only as between devisees of that class, and devisees to a spouse or to kindred are chargeable only after devisees to persons not related to the testator.

**SECTION 151.167 Property sold to pay debts, expenses or family allowances: Contribution between devisees.** If property given by will to persons other than the residuary devisees is sold for the payment of debts or expenses or family allowances, all the devisees shall contribute in proportion to their respective interests to the devisee whose devise has been sold, and the court, when distribution is made, shall settle the amount of the several liabilities and order the amount each person is liable to contribute to be withheld from that person's distributive share for the purpose of the contribution.

## DISCHARGE

**SECTION 151.170 Payments to finance department for person who cannot be found, minor or incapacitated person without guardian, and others.** If property is assigned or distributed to a person who cannot be found or who refuses to accept the property or to give a proper voucher therefor, or to a minor or incapacitated person who has no legal guardian to receive the property, or person authorized to receipt therefor, and the property or any part thereof consists of money, the personal representative may deposit the money, in the name of the assignee or distributee, with the tribal finance department. The finance department shall give a receipt for the money and is liable upon the official bond of the finance department therefor. The receipt must be received by the court as a voucher in favor of the personal representative with the same force and effect as if executed by the assignee or distributee.

**SECTION 151.180 Distribution to guardians of nonresident minors and incapacitated persons.** If an assignee or distributee is a nonresident minor or incapacitated person who has a guardian of his estate legally appointed under the laws of a foreign jurisdiction, the distribution of the assignee's or distributee's share may be made to the legally appointed guardian, whose receipt therefor, together with a certificate of appointment issued under the seal of the court by the clerk of the court appointing the guardian, when filed with the clerk of the court in which the assignment or distribution was ordered, must be received by the court as a complete receipt and voucher in favor of the personal representative.

**SECTION 151.190 Sale of unclaimed personal property; disposition of proceeds.**

1. If personal property remains in the possession of a personal representative unclaimed for 1 year, or if the distributee refuses to accept or give a proper receipt for the property, or is a minor or incapacitated person and has no legally qualified guardian of his estate, and it appears to the court that it is for the benefit of those interested, or if the personal representative desires his discharge and it appears to the court that no injury will result to those interested, the court shall order the property to be sold.

2. The proceeds, after deducting such expenses of sale as may be allowed by the court, must be paid into the Tribal Finance Department. The depositor must take from the finance department a receipt, which must be filed with the court.

**SECTION 151.210 Claim of money paid into Finance Department; order of court.** If any person appears and claims the money paid into the Tribal Finance Department, the court making the distribution shall inquire into the claim, and, if satisfied of his right thereto, shall enter an order to that effect to present to the Finance Department.

**SECTION 151.220 Specific devise of personal property for life only.** If a specific devise of personal property is for life only, the life tenant must sign and deliver to the remainderman or, if there is none, to the personal representative, an inventory of the property, acknowledging that it is in the life tenant's custody for life only, and that, on death, it is to be delivered to the remainderman.

**SECTION 151.230 Order of discharge; court may excuse filing of receipt; order for distribution of estate from recovery of distributed property.**

1. If an estate has been fully administered, and it is shown by the personal representative, by the production of satisfactory receipts, that all sums of money due and all the property of the estate has been distributed to the persons entitled to it and all acts lawfully required have been performed, the court shall enter an order discharging sureties from all liability thereafter to be incurred.

2. The court may excuse the filing of a receipt on a proper showing that the personal representative is unable, after reasonable effort, to obtain a receipt and that the property has been delivered to or is in the possession of the distributee or creditor.

3. The provisions of this section do not bar a successful appellant from an order for the distribution of an estate from the recovery of any property distributed to an heir or devisee pursuant to the order.

## REOPENING

**SECTION 151.240 Subsequent administration; limitation on reopening estate.**

1. Except as otherwise provided in subsection 2, the final settlement of an estate does not prevent:

(a) The reopening of the estate for the purpose of administering other property which has been discovered or for correcting errors made in the description of the property administered.

(b) The subsequent issuance of letters if it becomes necessary or proper for any cause that letters should again be issued.

2. In the absence of fraud, an estate must not be reopened based upon the discovery of:

(a) A will, if the estate was administered as if the decedent had died intestate; or

(b) A will dated later than the will that was probated.

**SECTION 151.250 Petition; hearing and notice.** An heir, devisee, creditor or other interested person may petition for the reopening of an estate upon the grounds provided in [SECTION 151.240](#). The petition must set forth the names of all heirs, devisees and creditors and their addresses, if known. If the address is unknown to the petitioner, he shall state that fact in the petition. The clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner required by [SECTION 155.010](#).

**SECTION 151.260 Supplemental orders.** Upon hearing the petition, if good cause is shown, the court may:

1. Reopen the estate.

2. Order the administration of other property which has been discovered.

3. Enter any necessary orders to correct errors made in the description of the estate previously administered.

➤ In the absence of fraud, no proceedings may be taken by the court after the reopening of an estate except as necessary to administer other property which has been discovered or to correct errors made in the description of the estate previously administered. Any orders of the court made necessary by the reopening of the estate must be designated as supplemental orders.

