

15 GCA ESTATES AND PROBATE
CH. 3 DETERMINATION OF HEIRSHIP OR ENTITLEMENT TO
DISTRIBUTION; ESTABLISHING FACT OF DEATH

CHAPTER 32
DETERMINATION OF HEIRSHIP OR ENTITLEMENT
TO DISTRIBUTION; ESTABLISHING FACT OF DEATH

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§ 3201. Determination of Heirship or Entitlement to Distribution: Application.

At any time after the first publication of the notice to creditors required by Section 2503 of this Title and prior to the time a petition for final distribution has been filed, the personal representative or any person claiming to be an heir of the decedent or entitled to distribution of the estate or any part thereof may file a petition with the Clerk of the Superior Court, setting forth his claim or reason and praying that the Superior Court determine who are entitled to distribution of the estate. The Clerk of the Superior Court shall set the petition for hearing, and notice thereof shall be given in the manner provided in Section 3401 of this Title. Any person may appear and file a written statement setting forth his interest in the estate. No other pleadings are necessary and the allegations of each claimant shall be deemed to be denied by each of the other claimants to the extent that they conflict with any claim of the latter.

SOURCE: Probate Code of Guam (1970), § 1080; Guam Law Revision Commission.

COMMENT: See Comment to § 3205, *infra*.

§ 3203. Determination of Heirship or Entitlement to Distribution: Hearing; Conclusiveness of Decree.

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(a) At the time appointed for the hearing referred to in Section 3201 of this Title, the Superior Court shall hear the petition referred to in Section 3201 of this Title and any objection thereto that may have been presented, and shall determine and set forth in its decree who are the heirs of the decedent or are entitled to distribution of the decedent's estate, and shall specify in its decree the interest of each.

(b) When the decree referred to in subsection (a) of this Section becomes final, it shall be conclusive upon the matters determined, both during the remainder of the administration and upon any subsequent proceeding for distribution.

SOURCE: Subsection (a): Probate Code of Guam (1970), § 1081. Subsection (b): Probate Code of Guam (1970), § 1082.

COMMENT: See Comment to § 3205, *infra*.

§ 3205. Determination of Heirship or Entitlement to Distribution: Who May File Petition; Contents.

When title to real or personal property, or any interest therein, vests, other than by the laws of succession, in the heirs, heirs of the body, issue, or children of any person, without other description or means of identification of the persons embraced in such description, any person interested in such property as such heir, heir of the body, issue, or child, or as the successor in interest of any such interested person, or the personal representative of any such interested person or of the successor in interest of any such interested person, may file a verified petition with the Clerk of the Superior Court setting forth briefly the deraignment of title of the petitioner, a description of the property affected, and, so far as known to the petitioner, the names, ages, and mailing addresses of the heirs, heirs of the body, issue, or children whose identity is sought to be determined, and if any is dead or if the mailing address of any is unknown, stating such facts, and requesting that a decree be entered determining and establishing the identity of the persons embraced in such general description.

SOURCE: Probate Code of Guam (1970), § 1190.

COMMENT: The petition and proceeding described in § 3205 should be distinguished from those provided in §§ 3201 and 3203, *supra*. The proceeding for determination of heirship, as provided in § 3205, can occur only where a testator has made certain provisions in his will, which provisions need clarification. The proceeding established by §§ 3201 and 3203, on the other hand, may be used in any probate matter, whether the decedent was testate or intestate.

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§ 3207. Determination of Heirship: Procedures.

(a) The Clerk of the Superior Court shall set the petition referred to in Section 3205 of this Title for hearing, and notice thereof shall be given in the manner provided in Section 3401 of this Title. At any time before the hearing any person interested in the property may answer the petition referred to in Section 3205 of this Title and deny any of the matters contained therein.

(b) The Superior Court shall hear the proofs offered by the petitioner and by any person contesting and must make a decree conformable to the proofs. Such decree shall be prima facie evidence of the facts determined thereby, and shall be conclusive in favor of anyone acting thereon in good faith, without notice of any conflicting interest.

SOURCE: Subsection (a): Probate Code of Guam (1970), §§ 1191, 1192. Subsection (b): Probate Code of Guam (1970), § 1192.

COMMENT: See Comment to § 3205, supra.

§ 3209. Establishing Fact of Death: Petition; Who May File; Fees; Time for Filing.

When a right of any person depends upon the death of another, such person may file with the Clerk of the Superior Court a petition setting forth the facts giving rise to the presumption that the other person is dead and praying that such other person's death be judicially ascertained and established by the Superior Court. Such petition may be filed at any time, and except as provided hereinbelow, the fee payable for the filing of such petition shall be the same as that payable for the filing of a civil action under applicable law or rule of court; provided, that if proceedings for the administration of the presumed decedent's estate are pending in the Superior Court, such petition may be filed in said proceedings without additional fee by such person or by the personal representative, at any time prior to the filing of a petition for final distribution in said proceedings.

SOURCE: Probate Code of Guam (1970), § 1193; California Probate Code, § 1171 (as amended); Guam Law Revision Commission.

COMMENT: The portion of § 3209 following the semicolon in the second sentence has been adapted from § 1171 of the California Probate Code. The portion of the second sentence prior to the semicolon has been added by the Commission. The first sentence has been taken from § 1193 of the Probate Code of Guam (1970).

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§ 3211. Establishing Fact of Death: Notice; Hearing; Objections; Determination; Order.

(a) The Clerk of the Superior Court shall set the petition referred to in Section 3209 of this Title for hearing, and notice thereof shall be given in the manner provided in Section 3401 of this Title. At any time before the hearing any person interested may answer the petition referred to in Section 3209 of this Title and object to any of the matters contained therein.

(b) The Superior Court shall hear the petition referred to in Section 3209 of this Title and all objections interposed thereto. If as a result of such hearing the Superior Court is satisfied that the evidence adduced in support of the petition is sufficient to establish the presumption that the person presumed to be dead is dead, it shall make a decree adjudging such person to be dead.

SOURCE: Subsection (a): Probate Code of Guam (1970), § 1194; Guam Law Revision Commission. Subsection (b): Probate Code of Guam (1970), § 1195; Guam Law Revision Commission.
