

**75-3-414 Formal proceedings concerning appointment of personal representative.**

- (1) A formal proceeding for adjudication regarding the priority or qualification of one who is an applicant for appointment as personal representative, or of one who previously has been appointed personal representative in informal proceedings, if an issue concerning the testacy of the decedent is or may be involved, is governed by Section 75-3-402, as well as by this section. In other cases, the petition shall contain or adopt the statements required by Subsection 75-3-301(2) and describe the question relating to priority or qualification of the personal representative which is to be resolved. If the proceeding precedes any appointment of a personal representative, it shall stay any pending informal appointment proceedings as well as any commenced thereafter. If the proceeding is commenced after appointment, the previously appointed personal representative, after receipt of notice thereof, shall refrain from exercising any power of administration except as necessary to preserve the estate or unless the court orders otherwise.
- (2) After notice to interested persons, including all persons interested in the administration of the estate as successors under the applicable assumption concerning testacy, any previously appointed personal representative and any person having or claiming priority for appointment as personal representative, the court shall determine who is entitled to appointment under Section 75-3-203, make a proper appointment and, if appropriate, terminate any prior appointment found to have been improper as provided in cases of removal under Section 75-3-611.

Amended by Chapter 194, 1977 General Session