

§3-108. Probate, testacy and appointment proceedings; ultimate time limit

1. Limitations period; exceptions. An informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may not be commenced more than 3 years after the decedent's death, except:

A. If a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Appropriate probate, appointment or testacy proceedings may be maintained in relation to the estate of an absent, disappeared or missing person for whose estate a conservator has been appointed at any time within 3 years after the conservator becomes able to establish the death of the protected person; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. A proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful may be commenced within the later of 12 months from the informal probate or 3 years from the decedent's death; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Regardless of whether the decedent dies before, on or after the effective date of this Code, an informal testacy or appointment proceeding or a formal testacy or appointment proceeding may be commenced more than 3 years after the decedent's death if no proceeding concerning the succession or estate administration has occurred within the 3-year period after the decedent's death, but the personal representative has no right to possess estate assets as provided in section 3-709 beyond that necessary to confirm title in the successors to the estate, and claims other than expenses of administration may not be presented against the estate; [PL 2023, c. 4, §7 (AMD).]

E. An informal or formal testacy proceeding may be commenced at any time after 3 years from the decedent's death for the purpose of establishing an instrument to direct or control the ownership of property passing or distributable after the decedent's death from a person other than the decedent when the property is to be appointed by the terms of the decedent's will or is to pass or be distributed as a part of the decedent's estate or its transfer is otherwise to be controlled by the terms of the decedent's will; and [PL 2023, c. 4, §8 (AMD).]

F. Appropriate probate, appointment or testacy proceedings may be commenced in relation to a claim for personal injury made against the decedent by a person without actual notice of the death of the decedent at any time within 6 years after the cause of action accrues. If the proceedings are commenced more than 3 years after the decedent's death, any recovery is limited to applicable insurance. [PL 2019, c. 417, Pt. A, §5 (NEW).]

[PL 2023, c. 4, §§7, 8 (AMD).]

2. Limitations period inapplicable. The limitations under subsection 1 do not apply to proceedings to construe probated wills or determine heirs of an intestate.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Special provision regarding date of death. In cases under subsection 1, paragraph A or B, the date on which a testacy or appointment proceeding is properly commenced is deemed to be the date of the decedent's death for purposes of other limitations provisions of this Code that relate to the date of death.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. A, §§4, 5 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2021, c. 4, §1 (AMD). PL 2023, c. 4, §§7, 8 (AMD).

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