

Information & Instructions: Muniment of title

PREVIEW

1. Probating a will secures court approval of the validity of the will and allows the will to be filed in the county records, which in turn permits title to the decedent's property to be passed.

a. Use this procedure if there is no need to have an executor or administrator pay bills and wind up the affairs of the deceased. A muniment of title is used to transfer title to assets from the estate to the beneficiaries without having an administrator handle the estate to marshal the assets and pay bills and expenses owed by the decedent's estate.

b. An ideal application for the use of this procedure is where the sole beneficiary under a will is also named as the executor and no debts exist in the Estate other than those secured by real property.

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2. The form requests the court to waive the appointment of appraisers for Estate valuation purposes and waive the filing of an inventory and appraisal for the Estate. The form also contains a provision to respond to the four year filing requirement.

Information & Instructions: Muniment of Title procedure

1. Complete the Application for Probate of a Will as Muniment of Title form.

2. Attach the original will to the application and file it with the clerk of the probate court.

3. Request the clerk to issue a citation and return as required by law.

4. After the return of the citation, set a hearing for the probating of the will.

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5. At the hearing, tender to the court the proof of death and other facts and an oath of no debts due against the Estate.

6. At the conclusion of the hearing, present the court with the order admitting the will to probate as a muniment of title.

7. An amendment to the Texas Probate Code requires the applicant to file an affidavit stating which terms of the will have been complied with.

8. The affidavit must also state which terms have not been complied with unless the court waives the same.

THANK YOU

9. The affidavit must be filed on or before 181 days from the date the will was filed.

10. Muniment of Title Section 128B Texas Probate Code requires applicant to give notice by service of process, per rule 33, or obtain a waiver of citation, to each of the testator's heirs if a will is offered for probate as a muniment of title, file the application ten years from the date of the death. The notice must be given to each of the heirs before the will is probated. If any of the

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addresses of the heirs cannot be ascertained by reasonable diligence, the court shall appoint an attorney ad litem to protect the interests of the unknown heirs.

PREVIEW

Information & Instructions: Requirement for an affidavit of the compliance with the terms of a will form in a Muniment of Title proceeding

1. Per Texas Probate Code Section 89, in addition to the preceding form, the affidavit should be filed within 181 days of the probate.
2. The form should specify which terms of the will have been complied with and which terms have not.
3. Furthermore, the practitioner should also file an inventory, appraisal and list of claims within the 181-day time period.

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Information & Instructions: Muniment of Title practice summary

PROBATE OF WILL AS A MUNIMENT OF TITLE

Effective September 1, 2003

Section 128B of the Texas Probate Code requires an applicant to give notice by service of process to each of the testator's heirs if offering a will for probate as a muniment of title after the lapse of four years from the date of death of the testator. The notice must be given to each of the heirs before the probate of the testator's will.

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If the address of any of the testator's heirs cannot be ascertained by the applicant with reasonable diligence, the court shall appoint an attorney ad litem to protect the interests of the unknown heirs.

1. Texas Probate Code references concerning the application and proof for a muniment of title:

Muniment of Title Section 128B Texas Probate Code requires applicant to give notice by service of process, per rule 33, or obtain a waiver of citation, to each of the testator's heirs if a will is offered for probate as a muniment of title, after the lapse of four years from the date of the death. The notice must be given to each of the heirs before the will is probated. If any of the addresses of the heirs cannot be ascertained by reasonable diligence, the court shall appoint an attorney ad litem to protect the interests of the unknown heirs.

THANK YOU

§89B Texas Probate Code Proof Required for Probate of a Will as a Muniment of Title

(a) General Proof. Whenever an applicant seeks to probate a will as a muniment of title, the applicant must first prove to the satisfaction of the court:

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(1) That the person is dead, and that four years have not elapsed since the person's death and prior to the application, and

PREVIEW

(2) That the court has jurisdiction and venue over the estate; and

(3) That citation has been served and returned in the manner and for the length of time required by this Code; and

(4) That there are no unpaid debts owing by the estate of the testator, excluding debts secured by liens on real estate.

(b) To obtain probate of a will as a muniment of title, the applicant must also prove to the satisfaction of the court:

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(1) If the will is not self-proved as provided by this Code, that the testator, at the time of executing the will, was at least 18 years of age, or was or had been lawfully married, or was a member of the armed forces of the United States or of the auxiliaries of the armed forces of the United States, or of the Maritime Service of the United States, and was of sound mind; and

(2) If the will is not self-proved as provided by this Code, that the testator executed the will with the formalities and solemnities and under the circumstances required by law to make it a valid will; and

(3) That such will was not revoked by the testator.

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§ 89C Texas Probate Code Probate of Wills as Muniments of Title

(a) In each instance where the court is satisfied that a will should be admitted to probate, and where the court is further satisfied that there are no unpaid debts owing by the estate of the testator, excluding debts secured by liens on real estate, or for other reason finds that there is no necessity for administration upon such estate, the court may admit such will to probate as a muniment of title.

(b) If a person who is entitled to property under the provisions of the will cannot be ascertained solely by reference to the will or if a question of construction of the will exists, on proper application and notice as provided by Chapter 37, Civil Practice and Remedies Code, the court may hear evidence and include in the order probating the will as a muniment of title a declaratory judgment construing the will or determining those persons who are entitled to receive property under the will and the persons' shares or interests in the estate. The judgment is conclusive in any suit between any person omitted from the judgment and a bona fide purchaser for value who has purchased real or personal property after entry of the judgment without actual notice of the claim of the omitted person to an interest in the estate. Any person who has delivered property of the decedent to a person declared to be entitled to the property under the judgment of this section, in any other case, for or with the person in good faith after entry of the judgment is not liable to any person for actions taken in reliance on the judgment.

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PREVIEW

(c) The order admitting a will to probate as a muniment of title shall constitute sufficient legal authority to all persons owing any money to the estate of the decedent, having custody of any property, or acting as registrar or transfer agent of any evidence of interest, indebtedness, property, or right belonging to the estate, and to persons purchasing from or otherwise dealing with the estate, for payment or transfer, without liability, to the persons described in such will as entitled to receive the particular asset without administration. The person or persons entitled to property under the provisions of such wills shall be entitled to deal with and treat the properties to which they are so entitled in the same manner as if the record of title thereof were vested in their names.

(d) Unless waived by the court, before the 181st day, or such later day as may be extended by the court, after the date a will is admitted to probate as a muniment of title, the applicant for probate of the will shall file with the clerk of the court sworn affidavit stating specifically the terms of the will that have been fulfilled and the terms of the will that have been unfulfilled. Failure of the applicant for probate of the will to file such affidavit shall not otherwise affect title to property passing under the terms of the will.

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THANK YOU

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Form: Application for probate of a will as a Muniment of Title

PREVIEW

NO. _____

IN THE ESTATE OF

IN THE [PROBATE] COURT

[NAME],

NO; _____

DECEASED

[NAME], COUNTY, TEXAS

PLEASE DO NOT COPY

APPLICATION FOR PROBATE OF A WILL AS A MUNIMENT OF TITLE

[Name of applicant], "Applicant" respectfully shows to the Court the following information that is necessary to probate the attached written Will of name of decedent], "Decedent", as a Muniment of Title.

1. Applicant is an individual interested in the Estate, domiciled in and residing at [address County, Texas].

2. Decedent died on [Date], in [County], at the age of [Age] years. Applicant has filed this Application within four years of Decedent's death.

[If the will is filed more than four years after decedent's date state: Applicant is not in default for failing to present the will for probate within four years of Decedent's death.]

*Do not include the provision regarding filing within four years if the decedent died on or after September 1, 1997. This paragraph is only needed if the applicant is filing the will for probate more than four years after the decedent's death and the decedent died on or before September 1, 1997.

3. Decedent resided at [address] at the time of decedent's death.

4. The Court has jurisdiction and venue of this probate because decedent was domiciled and had a fixed place of residence in this county on the date of death.

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5. Decedent owned real and personal property described generally, [such as a homestead at (address), cash, automobiles, household goods and personal effects, all of the property having a probable value in excess of \$ _____].

PREVIEW

6. This estimate is not intended to be a binding and conclusive figure since necessary valuations may not have been performed as of the filing of this Application.

7. Decedent left a valid typewritten Will which was dated and executed on [Date].

8. This Will meets the requirements of the State of Texas and as such should be admitted to probate.

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9. This Will, to the best of Applicant's knowledge and belief, has never been revoked, destroyed or canceled.

10. The Executor named in the will, if any and the Executor's address, and the subscribing witnesses to this Will and their addresses are:

a. [name and address]

b. [name and address]

THIS DOCUMENT

OR

[witness name is deceased or whose place of residence cannot be located]

11. The Will was made self proved in the manner prescribed by law.

12. No child or children were born to or adopted by decedent after the date of the Will [or, if children were born or adopted after the date of the Will, state their names, address and birth dates].

THANK YOU

13. Decedent was never divorced [or state that the decedent was divorced and the names and addresses of the Decedent's spouse, the date of the marriage and date of the divorce].

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14. Applicant has investigated the affairs of the Decedent and finds that to the best of Applicant's knowledge and belief, there are no unpaid debts owing by the Estate of the Decedent which are not secured by liens upon real Estate.

15. There is no necessity for any administration of this Estate.

16. Decedent's Will is offered for probate in order to show a clear chain of title for the beneficiaries who shall inherit under the Will.

[optional] 17. Applicant is entitled to appointment as independent executor, and is qualified to act and not disqualified by law to accept the appointment as such, however, Applicant would show that appointment or letters testamentary are not necessary for the probate and distribution of decedent's Estate.

18. Applicant respectfully requests the court to waive the following:

- a. appointment of appraisers regarding the valuation of the Estate,
- b. the filing of an inventory and appraisement for the Estate, and
- c. the requirement for the filing of an Affidavit of Fulfillment of The Terms of The Will.

19. Decedent's Will did not name any state, governmental agency, or a charitable organization as a devisee.

PRAYER

Applicant prays that **THANK YOU**

1. citation issue as required by law to all persons interested in this Estate;
2. that the Will be admitted to probate as a Muniment of Title;
3. that this Court order that no administration is necessary or required;
4. that appointment of appraisers regarding the valuation of the Estate be waived,

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5. that the filing of an inventory and appraisement for the Estate be waived;
6. that the filing of an Affidavit of Fulfillment of Terms of Will be waived;
7. and Applicant further prays for any and all other orders or relief that the Court may deem proper.

PREVIEW

Respectfully Submitted,

[Law Firm Name]

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[Attorney's Name]

Attorney for Applicant

[Attorney's Address]

[Telephone Number]

[Facsimile Number]

[Bar Card Number]

THIS DOCUMENT

THANK YOU

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**Information & Instructions: ~~Proof of death and other facts for probate of a will as a~~
Muniment of Title**

PREVIEW

1. Some probate courts use the term “Testimony for Self Proven Wills” instead of “Proof of Death and other facts”.

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THANK YOU

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Form: Proof of death and other facts for probate of a will as a Muniment of Title

PREVIEW
NO. _____

IN THE ESTATE OF

IN THE [PROBATE] COURT

[NAME],

NO; _____

DECEASED

[NAME], COUNTY, TEXAS

PROOF OF DEATH AND OTHER FACTS
PLEASE DO NOT COPY

On this date, [name of Affiant], "Affiant", personally appeared in Open Court, and after

being duly sworn, deposes and says that:

1. Name of decedent], "Decedent", died on [Date], at [address, County], at the age of [age] years, and four (4) years have not elapsed since the date of Decedent's death.

2. The court has jurisdiction and venue over the Estate because the Decedent was domiciled and had a fixed place of residence in this County at the date of Decedent's death.

3. Citation has been served and returned in the manner and for the length of time required by the Texas Probate Code.

4. The document dated [Date], shown to me and which purports to be Decedent's Will was never revoked so far as I know. Accordingly, Decedent died testate.

5. A necessity does not exist for the administration of this Estate.

6. No child or children were born to or adopted by Decedent after the date of the Will.

7. Decedent was never divorced [or was divorced from (Name of former spouse) on (date).]

8. The will was self proved and The Independent [Executor or Administrator] named in the Will is not disqualified by law from accepting Letters Testamentary or from serving as such and

they are entitled to the letters; however, the letters are not requested in Applicant's Application.

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9. There are no unpaid debts due and owing by the Estate of the testator, excluding debts secured by liens on real Estate.

PREVIEW

10. The will did not leave any property to a charity or to a governmental agency, accordingly, the Attorney General's office does not need to be served with notice of this probate filing.

Signed on _____.

PLEASE DO NOT COPY
Subscribed and sworn to before me on _____ by _____

[Name of Affiant]

Name].

Clerk of the _____ Court

of _____ County, Texas.

By:

THIS DOCUMENT
Deputy

THANK YOU

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Information & Instructions: Oath of no debts due for a probate of a will as a Muniment of Title

PREVIEW

1. The Probate Courts will routinely admit a Will to probate as a muniment of title if there are no debts owed by the decedent other than debts secured by real Estate.
2. Accordingly, the Probate Court may require the applicant to sign an Oath of No Debts Due to verify that an administration is not necessary.
3. In the event that the deceased had numerous debts owed to creditors, an independent administration may be preferred.
4. The purpose of the oath of no debts due is to reassure the court that the muniment of title procedure is proper in the decedent's Estate. If there are debts owed against the Estate other than those secured by real Estate, muniment of title should not be used.

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Form: Oath of no debts due for a probate of will and Appointment of Title

PREVIEW

NO. _____

IN THE ESTATE OF

IN THE [PROBATE] COURT

[NAME],

NO; _____

DECEASED

[NAME], COUNTY, TEXAS

PLEASE DO NOT COPY

On [Date], personally appeared in open court [Name of applicant] who, being first duly sworn by me, on oath did say:

1. That [he or she] personally has full and certain knowledge of the facts relating to the above numbered and styled docket by virtue of [state relationship to deceased]; and
2. That there are no debts owing by the Estate of [name of deceased], and there is not a necessity for any administration of the Estate.

THIS DOCUMENT

[Name and Address of affiant]

Sworn to and subscribed before me in open court on _____.

Clerk
Probate Court No. _____
County, Texas

THANK YOU

Deputy

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Form: Order admitting will to probate as a Muniment of Title

PREVIEW
NO. _____

IN THE ESTATE OF

IN THE [PROBATE] COURT

[NAME],

NO; _____

DECEASED

[NAME], COUNTY, TEXAS

~~ORDER ADMITTING WILL TO PROBATE AS A MUNIMENT OF TITLE~~
PLEASE DO NOT COPY
On this day came on to be heard the Application for Probate of Will for filing as a

Muniment of Title filed by [Name of applicant], "Applicant", on behalf of the Estate of ,
"Decedent".

And it appearing to the Court that due notice had been given of said Application in the manner and for the length of time required by law; And the Court, having heard the evidence and having reviewed the Will and the other documents filed finds that the statements contained in the Application are true; that notice and citation have been given in the manner and for the length of time required by law; that decedent is dead, was a resident of [Name] County, Texas at the time of his or her death, and that four (4) years have not elapsed since the date of decedent's death; that decedent left a Will dated [Date], executed with the formalities and under the circumstances required by law to make it a valid Will; that on that date decedent had attained the age of eighteen (18) years and was of sound mind; that the Will was not revoked by decedent; that no objection to or contest of the probate of the Will has been filed; that all of the necessary proof required for the probate of the Will has been made; that the Will is entitled to probate; that in the Will there are no unpaid debts owing by the Estate of the decedent other than those secured by liens on real property.

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Accordingly, there is no necessity for the administration of decedent's Estate and the probating of decedent's Will as a Muniment of Title is therefore proper.

PREVIEW

It is therefore ORDERED, ADJUDGED and DECREED that the Will is admitted to probate, and the clerk of this court is ordered to record the Will, together with the Application and the sworn testimony of witnesses in the minutes of this Court for the purposes of establishing said Will as a **MUNIMENT OF TITLE** only.

[It is hereby ORDERED that before the 181st day after the date the Will, subject to this Order, is admitted to probate, applicant shall file with this Court, a sworn affidavit stating which of the terms of this Will has been fulfilled and which terms of the Will have not been fulfilled or the requirement for the filing of an Affidavit of Fulfillment of Terms of Will is waived.] Thereafter, upon payment of taxes, if any due, and the filing of an inventory and appraisal and upon filing with clerk of this court the aforementioned affidavit, then this Estate shall be dropped from the docket.

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THIS DOCUMENT

It is hereby ORDERED that the court shall waive the appointment of appraisers.

It is further ORDERED, ADJUDGED and DECREED that the Will is admitted to probate as a Muniment of Title only, and that the clerk of this court is ordered to record the decedent's Will as a Muniment of Title, together with the Application in the minutes of this court, and this Order shall constitute sufficient legal authority to all persons owing any money, having custody of any property or acting as the registrar or transfer agent for payment or transfer by them, without liability on their part, to the persons described in the Will.

THANK YOU

Signed on _____.

Form: Affidavit of fulfillment of terms of a will in a Muniment of Title proceeding

PREVIEW

NO. _____

IN THE ESTATE OF

IN THE [PROBATE] COURT

[NAME],

NO; _____

DECEASED

[NAME], COUNTY, TEXAS

AFFIDAVIT OF FULFILLMENT OF TERMS OF WILL

PLEASE DO NOT COPY

State of Texas

County of _____

BEFORE ME, the undersigned notary public, on this day personally appeared name of affiant], who being by me duly sworn, deposes and states on [his or her] oath that:

My name is [Name] and I make the following declarations per Section 89A of the Texas Probate Code:

1. I caused to be filed an Application for a will to be filed as a Muniment of Title. I am the applicant in that application

THIS DOCUMENT

2. The application is for the admission of the Last Will and Testament of [decendent], Decedent, to be admitted to probate as a muniment of title.

3. The following terms of the Last Will and Testament of [Name], Deceased have been fulfilled:

[list all of the terms that have been fulfilled].

4. The following terms of the Last Will and Testament of [Name], Deceased have not been fulfilled:

[list all of the terms that have not been fulfilled].

THANK YOU

Signed on _____.

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[Name of affiant]

State of Texas
County of _____

PREVIEW

Subscribed and sworn to before me on _____ by

_____.

Signature of officer

Notary's typed or printed name

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My commission expires: _____

[or Notary's Stamp]

THIS DOCUMENT

THANK YOU

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