

15 GCA ESTATES AND PROBATE
CH. 2 EXECUTION OF WILLS

**CHAPTER 2
EXECUTION OF WILLS**

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§ 201. Formalities Required for Witnessed Wills.

Every will must be in writing and every will, other than a holographic will, must be executed and attested as follows:

(a) It must be subscribed at the end thereof by the testator himself, or it must be subscribed by some person in the testator's presence and by the testator's direction. A person who subscribes the testator's name, by the testator's direction, should write his own name as a witness to the will, but a failure to do so will not affect the validity of the will.

(b) The subscription must be made, or the testator must acknowledge it to have been made by the testator or by the testator's authority, in the presence of both of the attesting witnesses, present at the same time.

(c) The testator, at the time of subscribing or acknowledging the instrument, must declare to the attesting witnesses that it is his will.

(d) There must be at least two (2) attesting witnesses, each of whom must sign the instrument as a witness, at the end of the will, at the testator's request and in the testator's presence. The witnesses should give their places of residence, but a failure to do so will not affect the validity of the will.

SOURCE: Probate Code of Guam (1970), § 50.

OFFICIAL FORM: See Official Form No. 1, Appendix "A".

§ 203. When Devises, Bequests and Legacies to Subscribing Witnesses are Valid; When They are Void.

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All beneficial devises, bequests and legacies to a subscribing witness are void unless there are two (2) other and disinterested subscribing witnesses to the will, except that if any such interested witness would be entitled to any share of the estate of the testator in case the will were not established, such interested witness shall take such proportion of the devise or bequest made to him in the will as does not exceed the share of the estate which would be distributed to him if the will were not established.

SOURCE: Probate Code of Guam (1970), § 51.

§ 205. Competency of Creditors to Be Witnesses to Wills.

A mere charge on the estate of the testator for the payment of debts does not prevent the testator's creditors from being competent witnesses to the testator's will.

SOURCE: Probate Code of Guam (1970), § 52.

§ 207. Requirements for Holographic Wills; Matters Which May Be Disregarded; Holographic Changes to Holographic Wills.

(a) A holographic will is one that is written, dated and signed by the hand of the testator himself. No formalities are necessary for its making or execution except as set forth in this subsection, and it need not be witnessed.

(b) The following may be disregarded by the Superior Court of Guam if immaterial to the sense and effectiveness of a holographic will which otherwise complies with the requirements of subsection (a) of this Section:

(1) Any matter printed, stamped, or otherwise mechanically or electronically placed upon the document by any person prior to its execution;

(2) Any matter written upon the document by any person other than the testator prior to its execution; and

(3) Any matter added to the document by any person other than the testator after its execution.

(c) A testator who makes and executes a holographic will may thereafter make holographic changes on, or holographic codicils to, such will without the necessity of signing or dating such will at the time such

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changes or codicils are made; provided, that sufficient evidence, whether intrinsic or extrinsic to such will, exists to show that the testator intended such changes or codicils to be a part of his will.

SOURCE: Guam Law Revision Commission.

COMMENT: The Commission has drafted § 207 along general lines suggested by Professor Lowell Turrentine in his "Introduction to the California Probate Code," which appears in West's Annotated California Code -- Probate Code, §§ 1 to 399, at page 1 et seq. In this lengthy and excellent introduction, Professor Turrentine makes a number of suggestions for the improvement of various specific sections of the California Probate Code, including its provisions concerning holographic wills. See p. 37, where Professor Turrentine states:

Probate Code § 53 should be amended to provide that in holographic wills, matter of a non-holographic nature, even though found in the body of the will, may be disregarded if immaterial to the sense and effectiveness of the will, or if added after execution by someone other than the testator with or without the testator's authority. * * * The amendment might go on to provide that holographic changes on, or holographic codicils to, a holographic will may be made by the testator after execution of the will without re-signing and re-dating, provided there is sufficient intrinsic or extrinsic evidence of the testator's intent that such changes or codicils be a part of his will.

Section 207 incorporates into one Section all of the amendments suggested by Professor Turrentine. Its most obvious effect is to liberalize considerably the law concerning the validity of holographic wills, particularly in its allowing the court to consider --and either accept or disregard -- materials in the body of a holographic will which are not necessarily in the testator's own handwriting. Moreover, subsection (c) -- which allows the maker of a holographic will to add holographic changes or codicils thereto -- is completely new, and serves to liberalize the law concerning holographic wills even further.

§ 209. Wills May Be in Any Language.

A will may be written and executed in any language.

SOURCE: Probate Code of Guam (1970), § 56.
