

**15 GCA ESTATES AND PROBATE  
CH. 14 JURISDICTION**

**DIVISION 3  
ADMINISTRATION OF DECEDENTS' ESTATES**

**CHAPTER 14  
JURISDICTION**

- § 1401. Title and Possession of Property Upon Decedent's Death.
- § 1403. Probate Jurisdiction in Superior Court of Guam.
- § 1405. Conclusiveness of Orders Granting Letters; Exceptions.
- § 1407. Disqualification of Interested Judge; Procedure for Transfer of Proceedings to Other Judge.

**§ 1401. Title and Possession of Property Upon Decedent's Death.**

(a) Upon a person's death, the title to such person's property, real and personal, passes immediately to the person or persons to whom it is devised or bequeathed by such person's last will, or, in the absence of such disposition, to the person or persons who succeed to such person's estate as provided in Division 2 of this Title.

(b) Notwithstanding the provisions of subsection (a) of this Section, and except as otherwise provided by law, all of such person's property shall be subject to the possession of such person's personal representative and to the control of the Superior Court of Guam for the purpose of administration, sale or other disposition under the provisions of Division 3 of this Title, and shall be chargeable with the expenses of administering such person's estate, and the payment of such person's debts and the allowance to such person's family.

**SOURCE:** Probate Code of Guam (1970), § 300.

**§ 1403. Probate Jurisdiction in Superior Court of Guam.**

Wills must be proved, and letters testamentary, letters of administration with the will annexed, letters of administration or special letters of administration granted, and administration of estates of decedents had, in the Superior Court of Guam.

**SOURCE:** Probate Code of Guam (1970), § 301.

**§ 1405. Conclusiveness of Orders Granting Letters; Exceptions.**

In the absence of fraud in its procurement, an order of the Superior Court of Guam granting letters testamentary, letters of administration with the will annexed, or letters of administration, when such order

**15 GCA ESTATES AND PROBATE**  
**CH. 14 JURISDICTION**

becomes final, is a conclusive determination of the jurisdiction of the Superior Court of Guam (except when based upon the erroneous assumption of death), and cannot be collaterally attacked.

**SOURCE:** Probate Code of Guam (1970), § 302.

**§ 1407. Disqualification of Interested Judge; Procedure for Transfer of Proceedings to Other Judge.**

(a) No will shall be admitted to probate, or letters testamentary, letters of administration with the will annexed or letters of administration granted, or other proceeding had (except the ordering of a transfer as provided in subsection (b) of this Section), before any judge who is interested as an heir of the decedent, or as a legatee or devisee under such will, or when such judge is named as executor or trustee in such will, or is in any other manner interested or disqualified from acting. A judge who was a witness to a will is disqualified from acting in any proceeding prior to and including the admission of such will to probate or in any proceeding involving its validity or interpretation.

(b) When a petition is filed praying for the admission of a will to probate or for the granting of letters of administration with the will annexed or of letters of administration, or when proceedings are pending with respect to an estate, and the judge of the Superior Court of Guam before whom such petition or proceedings are pending is not qualified to act under the provisions of subsection (a) of this Section, such judge shall bring the fact of his disqualification to the attention of the Presiding Judge of the Superior Court of Guam, who shall make an order assigning another judge of the Superior Court of Guam to act in the matter; provided, that if the judge so disqualified is the Presiding Judge of the Superior Court of Guam, he shall bring the fact of his disqualification to the attention of the Judicial Council, which shall make an order assigning another judge of the Superior Court of Guam to act in the matter.

**SOURCE:** Probate Code of Guam (1970), § 303; Guam Law Revision Commission.

**COMMENT:** Section 1407 has been divided into subsections and slightly rewritten, principally for the sake of complete clarity. Two minor substantive changes have also been made: (1) In subsection (a), the words "...or is a witness thereto" have been deleted, and the second sentence added in their place. This will allow a judge who witnessed a will to hear some, but not all, aspects of the probate of that will -- briefly, such judge can sit concerning anything in which he was not involved by having been a witness. (2) Under § 303 of the Probate Code of Guam (1970), a disqualified judge always brought the matter of his disqualification to the

**15 GCA ESTATES AND PROBATE**  
**CH. 14 JURISDICTION**

Judicial Council, which would then assign another judge to hear the case; subsection (b) has been revised to provide a more streamlined procedure when the disqualified judge is not the Presiding Judge of the Superior Court of Guam.

-----