

CHAPTER 919

H.B. No. 579

AN ACT

relating to the compensation of certain personal representatives.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 241, Texas Probate Code, is amended to read as follows:

Sec. 241. COMPENSATION OF PERSONAL REPRESENTATIVES. (a) Compensation of Executors and Administrators. Executors, ~~and~~ administrators, *and temporary administrators* shall be entitled to receive ~~and may retain in their hands,~~ a commission

of five per cent (5%) on all sums they may actually receive in cash, and the same per cent on all sums they may actually pay out in cash, in the administration of the estate *on a finding by the court that the executor or administrator has taken care of and managed the estate in compliance with the standards of this code*; provided, no commission shall be allowed for receiving cash belonging to the testator or intestate which was on hand or on deposit to his credit in a bank at the time of his death, nor for paying out cash to the heirs or legatees as such; provided, further, however, that in no event shall the executor or administrator be entitled in the aggregate to more than five per cent (5%) of the gross fair market value of the estate subject to administration. If the executor or administrator manages a farm, ranch, factory, or other business of the estate, or if the compensation as calculated above is unreasonably low, the court may allow him reasonable compensation for his services. For this purpose, the county court shall have jurisdiction to receive, consider, and act on applications from independent executors. *The court may, on application of an interested person or on its own motion, deny a commission allowed by this subsection in whole or in part if:*

*(1) the court finds that the executor or administrator has not taken care of and managed estate property prudently; or*

*(2) the executor or administrator has been removed under Section 149C or 222 of this code.*

(b) Compensation of Guardians. A guardian of the person alone is entitled to no compensation. The guardian or the temporary guardian of the estate, or of the person and estate, shall not be entitled to, or receive, any fee or commission on the estate of the ward when it is first delivered to him; but shall be entitled to a fee of five per cent (5%) on the gross income of the ward's estate and five per cent (5%) on all money paid out *on a finding by the court that the guardian has taken care of and managed the estate in compliance with the standards of this code*. The term "money paid out" shall not be construed to include any money loaned or invested or paid over on the settlement of the guardianship. If the guardian manages a farm, ranch, factory, or other business of his ward, or if the compensation as calculated above is unreasonably low, the court may allow him reasonable compensation for his services. *The court may, on application of an interested person or on its own motion, deny a fee allowed by this subsection in whole or in part if:*

*(1) the court finds that the guardian has not taken care of and managed estate property prudently; or*

*(2) the guardian has been removed under Section 222 of this code.*

SECTION 2. This Act takes effect September 1, 1987.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the Senate, with amendments, on May 25, 1987, by the following vote: Yeas 30, Nays 0. Passed by the House on April 30, 1987, by a non-record vote.

Passed by the House on April 30, 1987, by a non-record vote. Passed by the Senate on May 29, 1987, by a viva-voce vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.