

REBA Title Standard No. 41

List of Heirs

The listing of a surviving spouse (if any) and heirs in proceedings filed in a Massachusetts probate court may be relied upon as complete and accurate in the absence of evidence to the contrary recorded or filed in the appropriate registry of deeds or probate:

- A. on an allowed petition for the probate of a will or administration of an estate filed prior to March 31, 2012;
- B. in a Decree and Order of the court that makes a determination of heirs in either a formal or informal probate; or
- C. in an original or duly amended list of Surviving Spouse, Children, Heirs at Law (Form MPC 162), filed with or after a Petition for Informal Appointment of Personal Representative pursuant to G.L. c. 190B, § 3-301 (Form MPC 150) that has been allowed by an Order of Informal Appointment of Personal Representative (a) after 12 months from the approval of the informal petition, or (b) three years from the date of death, whichever is later provided, however, that at least one of the following also applies:
 - 1. a Decree and Order of Complete Settlement has been issued but it fails to formally determine the surviving spouse and heirs or fails to confirm the listing of the surviving spouse and heirs on the Form MPC 162;
 - 2. a Closing Statement (Form MPC 850) has been duly filed pursuant to G.L. c. 190B, § 3-1003 and no challenge to the Closing Statement or other proceedings involving the personal representative were pending at the end of one year after the Closing Statement was filed;
 - 3. six years have passed since the allowance of the Bond of the Personal Representative.

Comments

As to paragraph A, although most conveyancers rely on such listings, pre-MUPC case law indicates that the list of heirs set forth in a petition is not conclusive. See Cassidy v. Truscott 287 Mass. 515, 192 NE. 164 (1934); and Hopkins v. Treasurer and Receiver General 276 Mass. 502, 177 N.E. 654 (1931).

The period of six years provided for in paragraph C. 3. is based on M.G.L. c. 202 §20A, which limits the Personal Representative from seeking a license to sell to pay costs of administration after that time period.

The MPC form titles and numbers recited are current as of the date of adoption of the second amendment to this title standard and should be construed as referring to such forms as they may be amended or replaced in the future.

Caveat

Paragraph A of this Standard does not apply to a listing of heirs on a petition converted to a probate proceeding under M.G.L. c. 190B pursuant to Probate and Family Court Amended Standing Order 5-11 (Application of M.G.L. c. 190B, Articles I-IV, VI and VII, to Estate Cases Pending on January 2, 2012, or with a Decree Issued Prior Thereto).

Adopted November 26, 1979

Amended May 7, 2012 (to confirm Standard to passage of M.G.L. c. 190B, effective March 31, 2012)

Amended November 4, 2019

Amended May 12, 2025 (to add the third comment regarding MPC forms)