

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 2141

By: Bonny

AS INTRODUCED

An Act relating to probate procedure; creating the Simplification of Succession Act; providing short title; permitting certain petition for summary administration; providing value limitation; requiring petition to set forth certain information; requiring verification of petition; providing procedure for summary administration; providing for certain notice and setting forth requirements for notice; providing procedure for court hearing; providing for findings of fact and conclusions of law; requiring court to issue order; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 245 of Title 58, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 5 of this act shall be known and may be cited as the "Simplification of Succession Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 246 of Title 58, unless there is created a duplication in numbering, reads as follows:

A. In any estate in which the total gross value does not exceed Thirty Thousand Dollars (\$30,000.00), a petition for summary administration may be filed by any executor, heir, devisee, legatee, or any other person interested in the estate and which estate meets the jurisdictional requirements of this state. The petition shall set forth the following:

1. The jurisdictional facts;
2. The named executor, if applicable;
3. The names, ages, and residences of the heirs, legatees, and devisees of the decedent, or any guardians of such heirs, legatees, or devisees;
4. The value and character of the property of the estate;
5. Whether the decedent left a will and, if so, the original or certified or authenticated copy shall be attached to the petition or, in the case the original cannot be found, a complete explanation of the failure to find the will and proof of the execution and validity of the will; and
6. The names and addresses of all creditors of the decedent, with the amounts owing to each of the creditors, and with a further statement that if there are other creditors, they are unknown to the petitioner, and cannot with reasonable diligence be ascertained.

B. The petition shall be verified in writing by the petitioner or the agent or attorney of the petitioner that the facts set forth in the petition are correct according to the best knowledge, information, and belief of the petitioner.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 247 of Title 58, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing of the petition, the court shall dispense with any regular probate proceedings prescribed by law and set a hearing on the petition not less than fifteen (15) days nor more than thirty (30) days from the date of the filing of the petition. Notice of the petition, notice to creditors, and notice of final accounting, determination of heirship, and distribution shall be combined into one notice and published for two (2) consecutive weeks in some newspaper of general circulation, published in the county where the probate is filed, or if there is no newspaper published in the county, posted in three public places in the county, one of which shall be the county courthouse. The notice shall be mailed to all known creditors of the decedent and to all persons interested in the estate not less than ten (10) days prior to the date of the hearing.

B. The notice referred to in subsection A of this section shall set forth the following:

1. The name, address, and date of death of the decedent;
2. The name and address of the petitioner;
3. The total value of the estate of the decedent as set forth in the petition and that the value is within the limits set forth for summary administration pursuant to this act;
4. The time and place of the hearing;
5. That upon such hearing, the court will determine whether the estate is to be distributed, and if so, to whom the estate is to be distributed;
6. That upon the hearing, any person interested in the estate may appear and assert any right to the estate and, if necessary, show cause why the petition should not be granted; and
7. That if the distribution is made, the claim of any creditor not presented at the hearing will be barred.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 248 of Title 58, unless there is created a duplication in numbering, reads as follows:

A. At the hearing provided for in Section 3 of this act, and upon proof that the required notice has been given, the court shall proceed with inquiry into the matters alleged by the petition, and shall give all persons interested full opportunity to be heard.

B. If the court determines that the value of the estate of the decedent exceeds the limitations prescribed in Section 2 of this act, the petition shall be dismissed and no findings of fact or conclusions of law shall be entered.

C. If the court determines that the value of the estate of the decedent is within the limitations prescribed in Section 2 of this act, the court shall proceed, in summary manner, to adjust and determine the respective rights of all interested persons, including the amounts actually owing to the creditors and the priority of such creditors.

D. If a will is presented, the court shall require the will to be proved as provided by law.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 249 of Title 58, unless there is created a duplication in numbering, reads as follows:

A. Upon the conclusion of the hearing provided for in Section 3 of this act, the court shall enter findings of fact and conclusions of law. The findings of fact shall show:

1. The name, address, and place of death of the decedent;
2. Each item of property, real or personal, left by the decedent with its value as determined by the court;
3. The reasonable expenses of petitioner in the proceeding;
4. The expenses and proof of payment of funeral expenses, expenses of last illness, and of allowed creditor claims;

5. The legal description of the homestead, if any, and the valuation and encumbrances thereon, if any;

6. All facts relevant to the setting aside of exempt property, whether real or personal, or both, including the names of the persons entitled thereto, and the basic facts entitling such persons to the exempt property; and

7. The heirs, legatees, and devisees entitled to share in the estate, and the respective shares or amounts which they are entitled to receive.

B. Upon the findings of fact and conclusions of law by the court, the court shall issue an order allowing such final accounting, determining heirship and the legatees and devisees, if any, of the decedent, and distributing property of the estate.

C. No further action shall be required as to the distribution of the estate. The order of the court shall have the same force and effect as a final decree or order rendered in any other proceeding provided in this title for distribution of the estate of a decedent. A certified copy of the court order may be filed and recorded in the records of the county clerk of any county where any real property owned by the decedent is located or in any county where real property in which the decedent had any right, title, or interest is located.

SECTION 6. This act shall become effective November 1, 1997.

46-1-5051

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