

ENROLLED SENATE
BILL NO. 79

By: Morgan of the Senate

and

Ericson of the House

An Act relating to probate; amending 58 O.S. 1991, Section 292, which relates to embezzlement; providing exception for certain financial institutions; providing notice to certain heirs and representatives; providing contents of notice; providing for redemption by heirs and representatives of certain property; providing for tender of certain amounts; providing for disposition of property; and providing an effective date.

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

SECTION 1. AMENDATORY 58 O.S. 1991, Section 292, is amended to read as follows:

Section 292. A. If any person, before the granting of letters testamentary or of administration, embezzles or alienates any of the monies, goods, ~~chattels~~ chattel or effects of a decedent, ~~he~~ the person is chargeable therewith, and liable to an action by the executor or administrator of the estate, for double the value of the property so embezzled or alienated, to be recovered for the benefit of the estate.

B. This section, however, shall not apply to any financial institution which has a valid security interest in the goods or chattel of the decedent and which has commenced or is about to commence repossession of the decedent's goods and chattel after default. The financial institution shall use diligent efforts to notify the heirs and personal representative of the decedent, by certified mail return receipt requested, of the repossession. The notice to the heirs and personal representative shall contain the amount of the debt secured by the goods or chattel as well as the expenses reasonably incurred by the secured party in retaking, holding and preparing the collateral for disposition, in arranging for the sale, and, to the extent provided in the agreement and not prohibited by law, their reasonable attorneys' fees and legal expenses. After receipt of the notice, the heirs and personal representative shall have twenty (20) days to redeem the goods or chattel by tendering to the secured party the full amount listed in the notice. If there are no heirs and personal representative, or if the notice to the heirs and personal representative by certified mail is returned undelivered, then the secured party may dispose of the repossessed goods or chattel as soon as practicable.

SECTION 2. This act shall become effective November 1, 2001.

Passed the Senate the 14th day of May, 2001.

Presiding Officer of the Senate

Passed the House of Representatives the 16th day of May, 2001.

Presiding Officer of the House
of Representatives