

ENGROSSED HOUSE  
BILL NO. 2223

By: Piatt of the House

and

Pruitt of the Senate

An Act relating to probate procedure; amending 58 O.S. 2001, Section 692, which relates to after acquiring property of a decedent and settlement of an estate; authorizing certain payments to certain heirs and beneficiaries; providing affidavit; providing certain restrictions and conditions; removing certain responsibilities from the person who pays, delivers, transfers or issues personal property; making person receiving the personal property liable; requiring certain duties; authorizing certain actions; prohibiting certain actions; providing penalties; authorizing certain procedures for after acquired property; repealing 6 O.S. 2001, Section 906, which relates to bank deposits and certain transfers to heirs; 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 248 of Title 58, unless there is created a duplication in numbering, reads as follows:

A. Any person, corporation, partnership, or other legal entity having possession of tangible personal property, a bank account, a certificate of deposit or other accounts, or an instrument evidencing a debt, obligation, stock or unearned insurance premium refund belonging to a decedent may make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing the debt, obligation, stock or unearned insurance premium to any person claiming to be the known heir or beneficiary of the decedent upon being presented an affidavit made by or on behalf of the heir or beneficiary stating that:

1. The value of the entire gross estate, wherever located, less liens and encumbrances, does not exceed Five Thousand Dollars (\$5,000.00);

2. No application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

3. The indebtedness or personal property or instrument is not held in joint tenancy, by trust or contain pay-on-death clause, or other valid and lawful means of transfer;

4. The decedent has not incurred an indebtedness to the Department of Human Services or the Oklahoma Health Care Authority for medical assistance for nursing home or other medical care;

5. The claiming heir or beneficiary is entitled to payment or delivery of the property and stating the reason therefor; and

6. The funds paid out pursuant to this section will first be used for funeral expenses or for reimbursement of the person paying such funeral expenses.

B. A transfer agent of any security or unearned insurance premium shall change the registered ownership on the books of a corporation from the decedent to the heir or beneficiary upon the presentation of an affidavit as provided in subsection A of this section.

C. 1. The person paying, delivering, transferring, or issuing personal property or the evidence thereof pursuant to the affidavit provided in subsection A of this section is discharged and released as if the person had dealt with a personal representative of the decedent and is not required to ensure the proper application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit.

2. Any person to whom payment, delivery, transfer, or issuance is made is liable and accountable therefor to any personal representative of the estate or to any other person having a superior right.

3. Any affiant receiving payment or delivery of personal property under this section shall be responsible for ensuring that the property is applied to liens and encumbrances, funeral expenses, expenses of administration and creditor claims as required by law.

4. An affiant submits personally to the jurisdiction of the courts of this state in any proceeding relating to the affidavit that may be instituted by any interested person.

D. Any person who knowingly submits and signs a false affidavit as provided in this section, upon conviction thereof, shall be fined not more than Twenty-five Thousand Dollars (\$25,000.00) or imprisoned for not more than six (6) months, or both. Restitution of the amount fraudulently attained shall be made to the rightful heir or beneficiary by the person so convicted.

SECTION 2. AMENDATORY 58 O.S. 2001, Section 692, is amended to read as follows:

Section 692. ~~The~~ A. Except as otherwise provided by law, pursuant to the provisions of this section the final settlement of an estate, as hereinbefore provided, shall not prevent a subsequent issue of letters testamentary or of administration, or of administration with the will annexed if other property of the estate is discovered, or if it become becomes necessary or proper for any cause that letters should be ~~again~~ issued.

B. If after an estate has been settled and the personal representative discharged, or after a closing statement has been filed and other property of the estate is discovered or any necessary act remains unperformed, or for any other proper cause, the court, upon petition of any interested person and upon notice as it directs, may appoint the same or a successor personal representative, with or without bond, to administer and resolve the subsequently discovered estate or issues. If a new appointment is made, unless the court orders otherwise, the provisions of this

title apply as appropriate, but no claim previously barred may be  
asserted in the subsequent administration.

SECTION 3. REPEALER 6 O.S. 2001, Section 906, is hereby  
repealed.

SECTION 4. This act shall become effective November 1, 2004.

Passed the House of Representatives the 3rd day of March, 2004.

\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Presiding Officer of the Senate