

THE HOUSE OF REPRESENTATIVES  
Thursday, February 28, 2008

House Bill No. 2534

HOUSE BILL NO. 2534 - By: MCCULLOUGH of the House.

An Act relating to probate procedure; amending 58 O.S. 2001, Sections 331 and 340, which relate to claims against an estate; requiring personal representative to file notice to individual or entity having a tort claim against the decedent within certain time; providing for notice requirements to individual or entity having claim against the decedent; modifying time limit for presentment and allowance of claim; and providing an effective date.

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

1 SECTION 1. AMENDATORY 58 O.S. 2001, Section 331, is amended to read as  
2 follows:  
3 Section 331. Every personal representative must, unless the notice has been given  
4 by a special administrator as provided in Section 215 of this title, within two (2) months  
5 after the issuance of ~~his~~ the letters, file notice to the creditors of the decedent and any  
6 individual or entity that may have a tort claim against the decedent stating that claims  
7 against said deceased will be forever barred unless presented to such personal  
8 representative, at the personal representative's place of residence or business, or at the  
9 place of business of the attorney for the personal representative, as specified in the  
10 notice, by the presentment date stated in the notice. The presentment date shall be a  
11 date certain which is at least two (2) months following the date said notice is filed, and  
12 the first publication of said notice shall appear on or before the tenth day after the filing

1 of said notice. If the presentment date stated is a Saturday, Sunday, or legal holiday, the  
2 presentment date shall be deemed to be the next succeeding day which is not a Saturday,  
3 Sunday, or legal holiday. The notice to creditors and individuals or entities having a tort  
4 claim against the decedent shall be given by publication in some newspaper in the county  
5 in which the probate is filed once each week for two (2) consecutive weeks, and by mail to  
6 all known creditors of the decedent and individuals or entities having a tort claim  
7 against the decedent at their respective last-known available addresses, in accordance  
8 with Section ~~6~~ 331.2 of this ~~act~~ title. The notice shall be substantially in the following  
9 form:

10 All creditors and individuals or entities having claims against A B, deceased, are  
11 required to present the same, with a description of all claims, security interests and  
12 other collateral (if any) held by each creditor with respect to such claim, to the named  
13 personal representative at \_\_\_\_\_ (address of the personal representative or attorney for  
14 the personal representative) on or before the following presentment date:  
15 \_\_\_\_\_, or the same will be forever barred.

16 C D, Personal Representative  
17 for the Estate of A B, deceased.

18 or

19 E F, Attorney for Personal Representative

20 Dated \_\_\_\_\_, ~~19~~ 20.

21 Provided, that in all proceedings wherein the decedent has been dead for a period of  
22 more than five (5) years prior to the commencement of a probate proceeding for said

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 decedent's estate, or where regular proceedings have been dispensed with pursuant to  
2 Section 241 of this title, the presentment date may be stated to be a date certain (subject  
3 to the above provisions regarding the stating of the presentment date as a Saturday,  
4 Sunday, or legal holiday) which is at least one (1) month following the date said notice is  
5 filed with the district court clerk for the county in which the probate is pending, and the  
6 first publication of said notice shall appear on or before the tenth day after the filing of  
7 said notice with said district court clerk.

8 SECTION 2. AMENDATORY 58 O.S. 2001, Section 340, is amended to read as  
9 follows:

10 Section 340. A. No claim must be allowed by the executor or administrator, or by  
11 the judge, ~~which~~ if either of the following has occurred:

12 1. The claim is barred by the statute of limitations; or

13 2. The claim is presented beyond the time frame provided in Section 331 of this  
14 title.

15 B. When a claim is presented to the judge for his allowance, ~~he may, in his~~ the  
16 judge has the discretion; to examine the claimant and others, on oath, and hear any other  
17 legal evidence touching the validity of the claim.

18 SECTION 3. This act shall become effective November 1, 2008.

19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,  
20 dated 02-27-08 - DO PASS.