

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2534

By: McCullough

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5  
6 AS INTRODUCED

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

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

17 SECTION 1. AMENDATORY 58 O.S. 2001, Section 331, is  
18 amended to read as follows:

19 Section 331. Every personal representative must, unless the  
20 notice has been given by a special administrator as provided in  
21 Section 215 of this title, within two (2) months after the issuance  
22 of ~~his~~ the letters, file notice to the creditors of the decedent and  
23 any individual or entity that may have a tort claim against the  
24 decedent stating that claims against said deceased will be forever  
barred unless presented to such personal representative, at the  
personal representative's place of residence or business, or at the

1 place of business of the attorney for the personal representative,  
2 as specified in the notice, by the presentment date stated in the  
3 notice. The presentment date shall be a date certain which is at  
4 least two (2) months following the date said notice is filed, and  
5 the first publication of said notice shall appear on or before the  
6 tenth day after the filing of said notice. If the presentment date  
7 stated is a Saturday, Sunday, or legal holiday, the presentment date  
8 shall be deemed to be the next succeeding day which is not a  
9 Saturday, Sunday, or legal holiday. The notice to creditors and  
10 individuals or entities having a tort claim against the decedent  
11 shall be given by publication in some newspaper in the county in  
12 which the probate is filed once each week for two (2) consecutive  
13 weeks, and by mail to all known creditors of the decedent and  
14 individuals or entities having a tort claim against the decedent at  
15 their respective last-known available addresses, in accordance with  
16 Section ~~6~~ 331.2 of this ~~act~~ title. The notice shall be  
17 substantially in the following form:

18 All creditors and individuals or entities having claims against  
19 A B, deceased, are required to present the same, with a description  
20 of all claims, security interests and other collateral (if any) held  
21 by each creditor with respect to such claim, to the named personal  
22 representative at \_\_\_\_\_ (address of the personal representative or  
23 attorney for the personal representative) on or before the following  
24

1 presentment date: \_\_\_\_\_, or the same will be forever  
2 barred.

3 C D, Personal Representative  
4 for the Estate of A B, deceased.

5 or

6 E F, Attorney for Personal Representative

7 Dated \_\_\_\_\_, 19 20\_\_.

8 Provided, that in all proceedings wherein the decedent has been  
9 dead for a period of more than five (5) years prior to the  
10 commencement of a probate proceeding for said decedent's estate, or  
11 where regular proceedings have been dispensed with pursuant to  
12 Section 241 of this title, the presentment date may be stated to be  
13 a date certain (subject to the above provisions regarding the  
14 stating of the presentment date as a Saturday, Sunday, or legal  
15 holiday) which is at least one (1) month following the date said  
16 notice is filed with the district court clerk for the county in  
17 which the probate is pending, and the first publication of said  
18 notice shall appear on or before the tenth day after the filing of  
19 said notice with said district court clerk.

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

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

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

2        2. The claim is presented beyond the time frame provided in

3 Section 331 of this title.

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

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

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10        51-2-9131            MMP            01/07/08