

ESB 889

THE HOUSE OF REPRESENTATIVES
Wednesday, April 1, 2009

ENGROSSED

Senate Bill No. 889

As Amended

ENGROSSED SENATE BILL NO. 889 - By: ANDERSON of the Senate and ENNS of the House.

(wills and succession - Uniform International Wills Act - codification -
effective date)

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 350 of Title 84, unless there is created a duplication in numbering,
3 reads as follows:

4 This act shall be known and may be cited as the “Uniform International Wills Act”.

5 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
6 Statutes as Section 351 of Title 84, unless there is created a duplication in numbering,
7 reads as follows:

8 As used in the Uniform International Wills Act:

9 1. “International will” means a will executed in conformity with the Uniform
10 International Wills Act; and

11 2. “Authorized person” and “person authorized to act in connection with
12 international wills” mean a person who by Section 10 of this act, or by the laws of the

1 United States including members of the diplomatic and consular service of the United
2 States designated by Foreign Service Regulations, is empowered to supervise the
3 execution of international wills.

4 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 852 of Title 84, unless there is created a duplication in numbering,
6 reads as follows:

7 A. A will is valid as regards form, irrespective particularly of the place where it is
8 made, of the location of the assets and of the nationality, domicile, or residence of the
9 testator, if it is made in the form of an international will complying with the
10 requirements of the Uniform International Wills Act.

11 B. The invalidity of the will as an international will does not affect its formal
12 validity as a will of another kind.

13 C. The Uniform International Wills Act does not apply to the form of testamentary
14 dispositions made by two (2) or more persons in one instrument.

15 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 853 of Title 84, unless there is created a duplication in numbering,
17 reads as follows:

18 A. The will must be made in writing. It need not be written by the testator him or
19 herself. It may be written in any language, by hand or by any other means.

20 B. The testator shall declare in the presence of two (2) witnesses and of a person
21 authorized to act in connection with international wills that the document is the will of

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

1 the testator and that the testator knows the contents of the will. The testator need not
2 inform the witnesses, or the authorized person, of the contents of the will.

3 C. In the presence of the witnesses, and of the authorized person, the testator shall
4 sign the will or, if the testator has previously signed it, shall acknowledge the signature.

5 D. If the testator is unable to sign, the absence of the signature of the testator does
6 not affect the validity of the international will if the testator indicates the reason for the
7 inability to sign and the authorized person makes note thereof on the will. In that case,
8 it is permissible for any other person present, including the authorized person or one of
9 the witnesses, at the direction of the testator, to sign the name of the testator for the
10 testator, if the authorized person makes note of this on the will, but it is not required
11 that any person sign the name of the testator for the testator.

12 E. The witnesses and the authorized person shall there and then attest the will by
13 signing in the presence of the testator.

14 SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 854 of Title 84, unless there is created a duplication in numbering,
16 reads as follows:

17 A. The signatures must be placed at the end of the will. If the will consists of
18 several sheets, each sheet must be signed by the testator or, if the testator is unable to
19 sign, by the person signing on behalf of the testator or, if there is no such person, by the
20 authorized person. In addition, each sheet must be numbered.

21 B. The date of the will must be the date of its signature by the authorized person.
22 The date must be noted at the end of the will by the authorized person.

1 C. The authorized person shall ask the testator whether the testator wishes to
2 make a declaration concerning the safekeeping of the will. If so and at the express
3 request of the testator, the place where the testator intends to have the will kept must be
4 mentioned in the certificate provided for in Section 6 of this act.

5 D. A will executed in compliance with Section 4 of this act is not invalid merely
6 because it does not comply with this section.

7 SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 855 of Title 84, unless there is created a duplication in numbering,
9 reads as follows:

10 The authorized person shall attach to the will a certificate to be signed by the
11 authorized person establishing that the requirements of the Uniform International Wills
12 Act for valid execution of an international will have been fulfilled. The authorized person
13 shall keep a copy of the certificate and deliver another to the testator. The certificate
14 must be substantially in the following form:

15 CERTIFICATE

16 I, _____ (name, address and capacity), a person authorized to act
17 in connection with international wills

18 Certify that on _____ (date) at _____ (place)

19 (testator) _____ (name, address, date and place of birth) in my
20 presence and in that of witnesses

21 1. _____ (name, address, date and place of birth)

1 2. _____ (name, address, date and place of birth) has declared that
2 the attached document is the will of the testator and that the testator knows the contents
3 thereof.

4 I furthermore certify that:

5 1. In my presence and in that of the witnesses

6 a. the testator has signed the will or has acknowledged the signature of
7 the testator previously affixed.

8 *b. following a declaration of the testator stating that the testator was
9 unable to sign the will for the following reason

10 _____, I have mentioned this declaration on the will

11 *and the signature has been affixed by _____ (name
12 and address);

13 2. The witnesses and I have signed the will;

14 *3. Each page of the will has been signed by _____ and numbered;

15 4. I have satisfied myself as to the identity of the testator and of the witnesses as
16 designated above;

17 5. The witnesses met the conditions requisite to act as such according to the law
18 under which I am acting;

19 *6. The testator has requested me to include the following statement concerning the
20 safekeeping of the will of the testator:

21 Place of Execution _____

22 Date _____

1 Signature _____

2 and, if necessary, SEAL

3 *to be completed if appropriate

4 SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 856 of Title 84, unless there is created a duplication in numbering,
6 reads as follows:

7 In the absence of evidence to the contrary, the certificate of the authorized person is
8 conclusive of the formal validity of the instrument as a will under the Uniform
9 International Wills Act. The absence or irregularity of a certificate does not affect the
10 formal validity of a will under the Uniform International Wills Act.

11 SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 857 of Title 84, unless there is created a duplication in numbering,
13 reads as follows:

14 An international will is subject to the ordinary rules of revocation of wills.

15 SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 858 of Title 84, unless there is created a duplication in numbering,
17 reads as follows:

18 The Uniform International Wills Act derives from Annex to Convention of October
19 26, 1973, Providing a Uniform Law on the Form of an International Will. In interpreting
20 and applying the Uniform International Wills Act, regard shall be had to its
21 international origin and to the need for uniformity in its interpretation.

UNDERLINED language denotes Amendments to present Statutes.
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1 SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 859 of Title 84, unless there is created a duplication in numbering,
3 reads as follows:

4 Individuals who have been admitted to practice law before the courts of this state
5 and are currently licensed to do so are authorized persons in relation to international
6 wills.

7 SECTION 11. This act shall become effective November 1, 2009.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-31-09 - DO PASS,
9 As Amended.