

1 ENGROSSED HOUSE
2 BILL NO. 1547

By: McCullough and Sherrer of
the House

3 and

4 Sykes of the Senate
5
6

7 An Act relating to probate procedure; amending 58
8 O.S. 2011, Sections 245 and 246, which relate to
9 summary administration; increasing estate value for
10 summary administration; directing court to issue
11 letters of special administration at the time of
12 filing; modifying time for filing of combined notice;
13 adding certain information to be included in the
14 combined notice; modifying timing for published
15 notice and mailed notice; modifying time for final
16 hearing; and providing an effective date.

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

18 SECTION 1. AMENDATORY 58 O.S. 2011, Section 245, is
19 amended to read as follows:

20 Section 245. A. A petition for summary administration may be
21 filed by any person interested in an estate that meets one of the
22 following conditions:

23 1. The value of the estate is less than or equal to ~~One Hundred~~
24 ~~Seventy five Thousand Dollars (\$175,000.00)~~ Two Hundred Thousand
Dollars (\$200,000.00);

2. The decedent has been deceased for more than five (5) years;
or

1 3. The decedent resided in another jurisdiction at the time of
2 death.

3 B. The petition shall set forth the following:

4 1. A statement of the interest of the petitioner;

5 2. The name, age and date of death of the decedent, and the
6 county and state of the decedent's domicile at the time of death;

7 3. If the decedent died testate, the original or certified copy
8 of the will of the decedent shall be attached to the petition,
9 together with a statement that:

10 a. the petitioner, to the best of the knowledge of the
11 petitioner, believes the will to have been validly
12 executed, and

13 b. after the exercise of due diligence, the petitioner is
14 unaware of any instrument revoking the will, and that
15 the petitioner believes that the instrument attached
16 to the application is the decedent's last will;

17 4. Whether the will attached to the petition has been admitted
18 to probate in any other jurisdiction;

19 5. If the decedent died intestate, the petitioner shall state
20 that the petitioner has diligently searched for and failed to find a
21 will;

22 6. The names, ages and last-known addresses of the
23 administrators, executors, nonpetitioning conominees, heirs,
24

1 legatees and devisees of the decedent, so far as known to the
2 petitioner;

3 7. The names and last-known addresses of all known creditors of
4 the decedent. The petitioner shall state that the petitioner has
5 exercised due diligence in determining the identities, last-known
6 addresses and claims of the decedent's creditors;

7 8. The probable value and character of the property of the
8 estate and the legal description of all real property owned by the
9 decedent in Oklahoma;

10 9. Whether an application or petition for the appointment of a
11 personal representative is pending or has been granted in any
12 jurisdiction; and

13 10. A statement of the relief requested, which may include a
14 prayer for the court to admit the will, if any, to probate, to
15 appoint the person requested in the petition as personal
16 representative, to determine the heirs, devisees and legatees of the
17 decedent, to approve the final account, to distribute the property
18 of the estate and to discharge the personal representative.

19 C. The petition shall be verified by the petitioner or signed
20 by the attorney for the petitioner.

21 D. The court, ~~without a hearing~~ at the time of filing of the
22 petition and combined notice, shall issue letters of special
23 administration to the person requested in the petition if the
24 petition is in proper form and:

1 1. The proposed personal representative is named as personal
2 representative in the will;

3 2. The proposed personal representative has prior right to
4 appointment; or

5 3. The petition is accompanied by a waiver of all persons
6 entitled to letters testamentary and all persons with a prior right
7 of appointment.

8 The special administrator shall have the powers set forth in
9 subsection A of Section 215 of ~~Title 58 of the Oklahoma Statutes~~
10 this title. The court, in its discretion, may require a bond.

11 SECTION 2. AMENDATORY 58 O.S. 2011, Section 246, is
12 amended to read as follows:

13 Section 246. A. Upon the filing of the petition and combined
14 notice, the court shall dispense with the regular estate proceedings
15 prescribed by law and the court shall order notice to creditors and
16 issue an order ~~for~~ granting final hearing upon the petition for
17 admission of the will, if any, to probate, the petition for summary
18 administration, the final accounting, and the petition for
19 determination of heirship, distribution and discharge. However,
20 nothing in this section shall affect the lien upon any property for
21 any estate or transfer tax which may be due upon the estate of the
22 decedent.

23 B. Notice to creditors and notice of hearing upon the petition
24 for summary administration and the final accounting, determination

1 of heirship, and distribution and discharge shall be combined into
2 one notice, referred to as a "combined notice". Combined notice
3 shall be filed at the same time the petition for summary
4 administration is filed. The combined notice shall set forth the
5 following:

6 1. The name, address, and date of death of the decedent;

7 2. The name and address of the petitioner;

8 3. Whether a will exists;

9 4. The name and address of the personal representative, if
10 specified;

11 5. The name and address of the heirs or devisees;

12 6. The total value of the estate of the decedent as set forth
13 in the petition;

14 7. The date, time and place of the final hearing;

15 8. That the person receiving the notice or any interested party
16 may file objections to the petition at any time before the final
17 hearing and send a copy to the petitioner or that person will be
18 deemed to have waived any objections to the petition;

19 9. That if an objection is filed before the hearing, the court
20 will determine at the hearing whether the will attached to the
21 petition shall be admitted to probate, whether summary proceedings
22 are appropriate and, if so, whether the estate will be distributed
23 and to whom the estate will be distributed; and

24

1 10. The claim of any creditor not shown in the petition will be
2 barred unless the claim is presented to the personal representative
3 no more than thirty (30) days following the filing of the petition
4 and combined notice.

5 C. Within ten (10) days of filing of the petition and combined
6 notice, notice of the petition, notice to creditors, and notice of
7 final accounting, determination of heirship, distribution and
8 discharge shall be published once each week for two (2) consecutive
9 weeks in a newspaper that is authorized by law to publish legal
10 notices and that is published in the county where the petition is
11 filed. If no newspaper authorized by law to publish legal notices
12 is published in the county, the notice shall be posted in three
13 public places in the county, one of which shall be the county
14 courthouse. ~~Notice to creditors and notice of hearing upon the~~
15 ~~petition for summary administration and the final accounting,~~
16 ~~determination of heirship, and distribution and discharge shall be~~
17 ~~combined into one notice, referred to as a "combined notice". The~~
18 Within ten (10) days of filing of the petition and combined notice,
19 the combined notice shall be mailed to creditors of the decedent as
20 provided in ~~Section~~ Sections 331 and 331.1 of ~~Title 58 of the~~
21 ~~Oklahoma Statutes~~ this title. The Within ten (10) days of filing of
22 the petition and combined notice, the combined notice shall be
23 mailed to all persons interested in the estate of the decedent at
24 their respective last-known addresses ~~not less than thirty (30) days~~

1 ~~prior to the date of the hearing. The notice shall set forth a date~~
2 ~~by which the final account and petition for distribution will be~~
3 ~~filed. The date of the filing shall follow the presentment date by~~
4 ~~at least five (5) days and shall precede by at least twenty (20)~~
5 ~~days the hearing on the order allowing final accounting,~~
6 ~~determination of heirs, legatees and devisees, if any, distribution~~
7 ~~and discharge.~~

8 ~~C. The combined notice shall set forth the following:~~

9 ~~1. The name, address, and date of death of the decedent;~~

10 ~~2. The name and address of the petitioner;~~

11 ~~3. The total value of the estate of the decedent as set forth~~
12 ~~in the petition;~~

13 ~~4. The time and place of the hearing;~~

14 ~~5. That the person receiving the notice must file objections to~~
15 ~~the petition at least ten (10) days before the hearing and send a~~
16 ~~copy to the petitioner or that person will be deemed to have waived~~
17 ~~any objections to the petition;~~

18 ~~6. That if an objection is filed at least ten (10) days before~~
19 ~~the hearing, the court will determine at the hearing whether the~~
20 ~~will attached to the petition shall be admitted to probate, whether~~
21 ~~summary proceedings are appropriate and, if so, whether the estate~~
22 ~~will be distributed and to whom the estate will be distributed; and~~

23 ~~7. The claim of any creditor not shown in the petition will be~~
24 ~~barred unless the claim is presented to the personal representative~~

1 ~~on or before a date certain at least thirty (30) days following the~~
2 ~~filing of the combined notice.~~

3 D. The matter shall be set for final hearing ~~not less than~~
4 forty-five (45) days following the ~~first publication of notice to~~
5 ~~creditors or~~ filing of the petition and combined notice.

6 E. If there is a defect in notice or in the form of the
7 petition or if objections are filed, or for other good cause shown,
8 the hearing may be postponed to a date certain.

9 SECTION 3. This act shall become effective November 1, 2013.

10 Passed the House of Representatives the 26th day of February,
11 2013.

12 _____
13 Presiding Officer of the House
14 of Representatives

15 Passed the Senate the ___ day of _____, 2013.

16 _____
17 Presiding Officer of the Senate