

1 ENGROSSED HOUSE
2 BILL NO. 2790

By: McCullough of the House

3 and

4 Sykes of the Senate
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7 An Act relating to probate procedure; amending 58
8 O.S. 2011, Sections 245 and 246, as amended by
9 Sections 1 and 2, Chapter 144, O.S.L. 2013 (58 O.S.
10 Supp. 2013, Sections 245 and 246), which relate to
11 summary administration; modifying contents of
12 petition; directing court to issue letters without a
13 hearing; barring creditor claims after certain time;
14 modifying timing requirements to coincide with order;
15 expanding timing for final hearing; and declaring an
16 emergency.

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

18 SECTION 1. AMENDATORY 58 O.S. 2011, Section 245, as
19 amended by Section 1, Chapter 144, O.S.L. 2013 (58 O.S. Supp. 2013,
20 Section 245), is amended to read as follows:

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

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

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

2 or

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

5 B. The petition shall set forth the following:

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

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

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

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

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

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

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

24

1 6. The names, ages and last-known addresses of the
2 administrators, executors, nonpetitioning conominees, heirs,
3 legatees and devisees of the decedent, so far as known to the
4 petitioner;

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

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

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

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

21 11. A waiver of the final accounting pursuant to Section 541 of
22 this title, if applicable.

23 C. The petition shall be verified by the petitioner or signed
24 by the attorney for the petitioner.

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

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

7 2. The proposed personal representative has prior right to
8 appointment; or

9 3. The petition is accompanied by a waiver of all persons
10 entitled to letters testamentary and all persons with a prior right
11 of appointment.

12 The special administrator shall have the powers set forth in
13 subsection A of Section 215 of this title. The court, in its
14 discretion, may require a bond.

15 SECTION 2. AMENDATORY 58 O.S. 2011, Section 246, as
16 amended by Section 2, Chapter 144, O.S.L. 2013 (58 O.S. Supp. 2013,
17 Section 246), is amended to read as follows:

18 Section 246. A. Upon the filing of the petition and combined
19 notice, the court shall dispense with the regular estate proceedings
20 prescribed by law and the court shall order notice to creditors and
21 issue an order granting final hearing upon the petition for
22 admission of the will, if any, to probate, the petition for summary
23 administration, the final accounting, and the petition for
24 determination of heirship, distribution and discharge. However,

1 nothing in this section shall affect the lien upon any property for
2 any estate or transfer tax which may be due upon the estate of the
3 decedent.

4 B. Notice to creditors and notice of hearing upon the petition
5 for summary administration and the final accounting, determination
6 of heirship, and distribution and discharge shall be combined into
7 one notice, referred to as a "combined notice". Combined notice
8 shall be filed at the same time the petition for summary
9 administration is filed. The combined notice shall set forth the
10 following:

- 11 1. The name, address, and date of death of the decedent;
- 12 2. The name and address of the petitioner;
- 13 3. Whether a will exists;
- 14 4. The name and address of the personal representative, if
15 specified;
- 16 5. The name and address of the heirs or devisees;
- 17 6. The ~~total~~ probable value of the estate of the decedent as
18 set forth in the petition;
- 19 7. The date, time and place of the final hearing;
- 20 8. That the person receiving the notice or any interested party
21 may file objections to the petition at any time before the final
22 hearing and send a copy to the petitioner or that person will be
23 deemed to have waived any objections to the petition;

24

1 9. That if an objection is filed before the hearing, the court
2 will determine at the hearing whether the will attached to the
3 petition shall be admitted to probate, whether summary proceedings
4 are appropriate and, if so, whether the estate will be distributed
5 and to whom the estate will be distributed; and

6 10. The claim of any creditor ~~not shown in the petition~~ will be
7 barred unless the claim is presented to the personal representative
8 no more than thirty (30) days following the ~~filing~~ granting of the
9 order admitting the petition and combined notice.

10 C. Within ten (10) days of ~~filing~~ the granting of the order
11 admitting the petition and combined notice, notice of the petition,
12 notice to creditors, and notice of final accounting, determination
13 of heirship, distribution and discharge shall be published once each
14 week for two (2) consecutive weeks in a newspaper that is authorized
15 by law to publish legal notices and that is published in the county
16 where the petition is filed. If no newspaper authorized by law to
17 publish legal notices is published in the county, the notice shall
18 be posted in three public places in the county, one of which shall
19 be the county courthouse. Within ten (10) days of ~~filing~~ the
20 granting of the order admitting the petition and combined notice,
21 the combined notice shall be mailed to creditors of the decedent as
22 provided in Sections 331 and 331.1 of this title. Within ten (10)
23 days of ~~filing~~ the granting of the order admitting the petition and
24 combined notice, the combined notice shall be mailed to all persons

1 interested in the estate of the decedent at their respective last-
2 known addresses.

3 D. The matter shall be set for final hearing not less than
4 forty-five (45) days following the ~~filing~~ granting of the order
5 admitting 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. It being immediately necessary for the preservation
10 of the public peace, health and safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

13 Passed the House of Representatives the 26th day of February,
14 2014.

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16 _____
17 Presiding Officer of the House
of Representatives

18 Passed the Senate the ___ day of _____, 2014.

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20 _____
21 Presiding Officer of the Senate