

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2790

By: McCullough

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5  
6 AS INTRODUCED

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; directing court to issue  
12 letters without a hearing; modifying timing  
13 requirements to coincide with order; expanding timing  
14 for final hearing; and providing an effective date.

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

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

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

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

24 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 this title. The court, in its  
10 discretion, may require a bond.

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

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

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

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

9 2. The name and address of the petitioner;

10 3. Whether a will exists;

11 4. The name and address of the personal representative, if  
12 specified;

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

14 6. The total value of the estate of the decedent as set forth  
15 in the petition;

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

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

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

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

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

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1 D. The matter shall be set for final hearing not less than  
2 forty-five (45) days following the ~~filing~~ granting of the order  
3 admitting the petition and combined notice.

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

7 SECTION 3. This act shall become effective November 1, 2014.

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