

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1743

By: Howard

AS INTRODUCED

An Act relating to successor trustees; authorizing successor trustee to file certain affidavit with county clerk; specifying information required in certain affidavit; establishing publication requirements for certain affidavit; establishing mailing requirements for certain affidavit; barring claims not timely presented; providing exception; construing provisions; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 175.18a of Title 60, unless there is created a duplication in numbering, reads as follows:

A. A successor trustee may file with the county clerk an Affidavit of Successor Trustee, which shall state the following with respect to the trust:

1. The full legal name and date of the trust;
2. The name, address, and date of death of the decedent grantor;
3. The name and address of the successor trustee;

1 4. A full legal description of the real property and the
2 probable value of the personal property of the decedent grantor
3 within the trust;

4 5. A date, time and place for presentation of creditor claims
5 which shall be no less than forty-five (45) days from the filing
6 thereof;

7 6. That the person receiving the Affidavit or any interested
8 party may file claims at any time before the date set pursuant to
9 paragraph 5 of this subsection and send a copy to the successor
10 trustee or that person will be deemed to have waived any claim
11 against trust property;

12 7. That if a claim is filed before the date set pursuant to
13 paragraph 5 of this subsection, the successor trustee must settle
14 the claim before any distributions may be made to beneficiaries; and

15 8. The claim of any creditor will be barred unless the claim is
16 presented to the successor trustee no more than forty-five (45) days
17 following the filing of Affidavit of Successor Trustee.

18 B. Within ten (10) days of the filing of the Affidavit of
19 Successor Trustee, the Successor Trustee shall cause the Affidavit
20 to be published once each week for two (2) consecutive weeks in a
21 newspaper that is authorized by law to publish legal notices and
22 that is published in the county where the Affidavit is filed. If no
23 newspaper authorized by law to publish legal notices is published in
24 the county, the Affidavit shall be posted in three public places in
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1 the county, one of which shall be the county courthouse. Within ten
2 (10) days of the filing of the Affidavit, the Affidavit shall be
3 mailed to creditors of the decedent grantor as provided in Sections
4 331 and 331.1 of Title 58 of the Oklahoma Statutes. Within ten (10)
5 days of the filing of the Affidavit, the Affidavit shall be mailed
6 to all persons interested in the trust at their respective last-
7 known addresses.

8 C. All claims arising upon contracts entered into prior to the
9 decedent grantor's death, whether the same be due, not due or
10 contingent, must be presented on or before the presentment date as
11 provided in the Affidavit of Successor Trustee, and any claim not so
12 presented is barred forever; provided, however, that when it is made
13 to appear by the affidavit of the claimant, to the satisfaction of
14 the judge of the district court, as duly noted on the claim, that
15 the claimant had no notice by reason of being out of the state and
16 that a copy of the notice to creditors was not mailed to the
17 claimant, the claim may be presented at any time before final
18 distribution is made; provided, further, that nothing in this
19 section, nor in this chapter contained, shall be construed to
20 prohibit the right or limit the time of foreclosure of mortgages
21 upon real property of decedent grantors, but every such mortgage may
22 be foreclosed within the time and in the mode prescribed in civil
23 procedure, except that no balance of the debt secured by such
24 mortgage remaining unpaid after foreclosure shall be a claim against

1 the trust or trustee, unless such debt was presented as required by
2 this title.

3 SECTION 2. This act shall become effective November 1, 2020.
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