



February 18, 2015

SENATE BILL No. 65

DIGEST OF SB 65 (Updated February 16, 2015 12:47 pm - DI 106)

Citations Affected: IC 29-1; noncode.

Synopsis: Claim deadlines. Extends provisions barring claims filed against a decedent's estate more than nine months after the date of the decedent's death under certain circumstances.

Effective: July 1, 2015.

Holdman

January 6, 2015, read first time and referred to Committee on Rules & Legislative Procedure.

January 27, 2015, amended; reassigned to Committee on Civil Law.

February 17, 2015, amended, reported favorably — Do Pass.

SB 65—LS 6173/DI 13



February 18, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 65

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 29-1-7-7, AS AMENDED BY P.L.143-2009,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 7. (a) As soon as letters testamentary or of
4 administration, general or special, supervised or unsupervised, have
5 been issued, the clerk of the court shall publish notice of the estate
6 administration.
7 (b) The notice required under subsection (a) shall be published in
8 a newspaper of general circulation, printed in the English language and
9 published in the county where the court is located, once each week for
10 two (2) consecutive weeks. A copy of the notice, with proof of
11 publication, shall be filed with the clerk of the court as a part of the
12 administration of the estate within thirty (30) days after the publication.
13 If no newspaper is published in the county, the notice shall be
14 published in a newspaper published in an adjacent county.
15 (c) The notice required under subsection (a) shall be served by first
16 class postage prepaid mail on each heir, devisee, legatee, and known

SB 65—LS 6173/DI 13



1 creditor whose name and address is set forth in the petition for probate
 2 or letters, except as otherwise ordered by the court. The personal
 3 representative shall furnish sufficient copies of the notice, prepared for
 4 mailing, and the clerk of the court shall mail the notice upon the
 5 issuance of letters.

6 (d) The personal representative or the personal representative's
 7 agent shall serve notice on each creditor of the decedent:

8 (1) whose name is not set forth in the petition for probate or
 9 letters under subsection (c);

10 (2) who is known or reasonably ascertainable within one (1)
 11 month after the first publication of notice under subsection (a);
 12 and

13 (3) whose claim has not been paid or settled by the personal
 14 representative.

15 The notice may be served by mail or any other means reasonably
 16 calculated to ensure actual receipt of the notice by a creditor.

17 (e) Notice under subsection (d) shall be served within one (1) month
 18 after the first publication of notice under subsection (a) or as soon as
 19 possible after the elapse of one (1) month. If the personal representative
 20 or the personal representative's agent fails to give notice to a known or
 21 reasonably ascertainable creditor of the decedent under subsection (d)
 22 within one (1) month after the first publication of notice under
 23 subsection (a), the period during which the creditor may submit a claim
 24 against the estate includes an additional period ending two (2) months
 25 after the date notice is given to the creditor under subsection (d).
 26 However, a claim filed under IC 29-1-14-1(a) **is barred if** more than:

27 **(1) nine (9) months have passed since after** the death of the
 28 decedent; **or**

29 **(2) two (2) months have passed from the date notice is given**
 30 **to the creditor under subsection (d);**

31 **whichever is later. is barred.**

32 (f) A schedule of creditors that received notice under subsection (d)
 33 shall be delivered to the clerk of the court as soon as possible after
 34 notice is given.

35 (g) The giving of notice to a creditor or the listing of a creditor on
 36 the schedule delivered to the clerk of the court does not constitute an
 37 admission by the personal representative that the creditor has an
 38 allowable claim against the estate.

39 (h) If any person entitled to receive notice under this section is
 40 under a legal disability, the notice may be served upon or waived by the
 41 person's natural or legal guardian or by the person who has care and
 42 custody of the person.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

(i) The notice shall read substantially as follows:

NOTICE OF ADMINISTRATION

In the _____ Court of _____ County, Indiana.
Notice is hereby given that _____ was, on the ____ day of
____, 20 __, appointed personal representative of the estate of
_____, deceased, who died on the __ day of _____, 20 __.

All persons who have claims against this estate, whether or not now
due, must file the claim in the office of the clerk of this court within
three (3) months from the date of the first publication of this notice, or
within nine (9) months after the decedent's death, whichever is ~~earlier;~~
later, or the claims will be forever barred.

Dated at _____, Indiana, this ____ day of _____, 20 __.

CLERK OF THE _____ COURT
FOR _____ COUNTY, INDIANA

SECTION 2. IC 29-1-14-1 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) Except as
provided in IC 29-1-7-7, all claims against a decedent's estate, other
than expenses of administration and claims of the United States, the
state, or a subdivision of the state, whether due or to become due,
absolute or contingent, liquidated or unliquidated, founded on contract
or otherwise, shall be forever barred against the estate, the personal
representative, the heirs, devisees, and legatees of the decedent, unless
filed with the court in which such estate is being administered within:

(1) three (3) months after the date of the first published notice to
creditors; or

(2) three (3) months after the court has revoked probate of a will,
in accordance with IC 29-1-7-21, if the claimant was named as a
beneficiary in that revoked will;

whichever is later.

(b) No claim shall be allowed which was barred by any statute of
limitations at the time of decedent's death.

(c) No claim shall be barred by the statute of limitations which was
not barred at the time of the decedent's death, if the claim shall be filed
within:

(1) three (3) months after the date of the first published notice to
creditors; or

(2) three (3) months after the court has revoked probate of a will,
in accordance with IC 29-1-7-21, if the claimant was named as a
beneficiary in that revoked will;

whichever is later.

(d) All claims barrable under subsection (a) shall be barred if not



1 filed within **the later of:**

2 **(1) nine (9) months after from** the death of the decedent; **or**

3 **(2) three (3) months after the:**

4 **(A) date of the first published notice to creditors; or**

5 **(B) court has revoked probate of a will, in accordance with**

6 **IC 29-1-7-21, if the claimant was named as a beneficiary in**
 7 **that revoked will;**

8 **whichever is later.**

9 (e) Nothing in this section shall affect or prevent any action or
 10 proceeding to enforce any mortgage, pledge, or other lien upon
 11 property of the estate.

12 (f) Nothing in this section shall affect or prevent the enforcement of
 13 a claim for injury to person or damage to property arising out of
 14 negligence against the estate of a deceased tortfeasor within the period
 15 of the statute of limitations provided for the tort action. A tort claim
 16 against the estate of the tortfeasor may be opened or reopened and suit
 17 filed against the special representative of the estate within the period
 18 of the statute of limitations of the tort. Any recovery against the tort
 19 feisor's estate shall not affect any interest in the assets of the estate
 20 unless the suit was filed within the time allowed for filing claims
 21 against the estate. The rules of pleading and procedure in such cases
 22 shall be the same as apply in ordinary civil actions.

23 SECTION 3. [EFFECTIVE JULY 1, 2015] **(a) IC 29-1-7-7 and**
 24 **IC 29-1-14-1, both as amended by this act, apply to the estate of an**
 25 **individual whose death occurs after June 30, 2015.**

26 **(b) This SECTION expires July 1, 2016.**



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 65, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Civil Law.

(Reference is to SB 65 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Civil Law, to which was referred Senate Bill No. 65, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 26, reset in roman "However, a claim filed under IC 29-1-14-1(a)".

Page 2, line 26, after "IC 29-1-14-1(a)" insert "**is barred if**".

Page 2, line 26, reset in roman "more".

Page 2, line 26, delete "than" and insert "than:

(1)".

Page 2, line 26, reset in roman "nine (9)".

Page 2, line 27, reset in roman "months".

Page 2, line 27, after "months" insert "**have passed since**".

Page 2, line 27, reset in roman "the death of the".

Page 2, line 27, delete "decedent" and insert "decedent; **or**

(2) two (2) months have passed from the date notice is given to the creditor under subsection (d);

SB 65—LS 6173/DI 13



whichever is later."

Page 3, line 5, reset in roman "or".

Page 3, line 6, reset in roman "within nine (9) months after the decedent's death, whichever is".

Page 3, line 6, after "earlier," insert "**later**".

Page 3, reset in roman line 38.

Page 3, line 39, reset in roman "filed within".

Page 3, line 39, after "within" insert "**the later of:**

(1)".

Page 3, line 39, reset in roman "nine (9) months".

Page 3, line 39, after "after" insert "**from**".

Page 3, line 39, reset in roman "the death of the".

Page 3, line 39, delete "decedent." and insert "decedent; **or**

(2) three (3) months after the:

(A) date of the first published notice to creditors; or

(B) court has revoked probate of a will, in accordance with IC 29-1-7-21, if the claimant was named as a beneficiary in that revoked will;

whichever is later."

Page 3, line 40, reset in roman "(e)".

Page 3, line 40, delete "(d)".

Page 4, line 1, reset in roman "(f)".

Page 4, line 1, delete "(e)".

and when so amended that said bill do pass.

(Reference is to SB 65 as printed January 28, 2015.)

ZAKAS, Chairperson

Committee Vote: Yeas 8, Nays 1.

