



April 10, 2015

ENGROSSED SENATE BILL No. 65

DIGEST OF SB 65 (Updated April 7, 2015 2:14 pm - DI 123)

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, Head, Randolph

(HOUSE SPONSOR — KOCH)

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.

February 23, 2015, read second time, ordered engrossed. Engrossed.

February 24, 2015, read third time, passed. Yeas 48, nays 2.

HOUSE ACTION

March 5, 2015, read first time and referred to Committee on Judiciary.

April 9, 2015, amended, reported — Do Pass.

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April 10, 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.

ENGROSSED 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

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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 the claimant did not file a notice to**
 28 **preserve claim under IC 29-1-7-16.5 and more than nine (9)**
 29 **months have passed since after the death of the decedent;**

30 **(2) the claimant filed a notice to preserve claim under**
 31 **IC 29-1-7-16.5, the claimant was served with a notice of**
 32 **administration before nine (9) months after the death of the**
 33 **decedent, and more than nine (9) months have elapsed since**
 34 **the death of the decedent; or**

35 **(3) the claimant filed a notice to preserve claim under**
 36 **IC 29-1-7-16.5, the claimant was not served with a notice of**
 37 **administration before nine (9) months after the death of the**
 38 **decedent, and more than eighteen (18) months have elapsed**
 39 **since the death of the decedent. is barred.**

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



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

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

9 (i) The notice shall read substantially as follows:

10 NOTICE OF ADMINISTRATION

11 In the _____ Court of _____ County, Indiana.

12 Notice is hereby given that _____ was, on the ____ day of
 13 _____, 20 __, appointed personal representative of the estate of
 14 _____, deceased, who died on the ____ day of _____, 20 __.

15 All persons who have claims against this estate, whether or not now
 16 due, must file the claim in the office of the clerk of this court within:

17 **(The personal representative or his or her agent shall select one**
 18 **(1) and only one (1) appropriate choice on any notice that is served**
 19 **on a creditor.)**

20 **(1) Three (3) months from the date of the first publication of this**
 21 **notice, or within nine (9) months after the decedent's death,**
 22 **whichever is earlier, or the claims will be forever barred.**

23 **(2) Two (2) months after the date this notice was served, or**
 24 **within nine (9) months after the decedent's death, whichever**
 25 **is earlier, or the claims will be forever barred.**

26 **(3) Eighteen (18) months after the decedent's death if a notice**
 27 **to preserve claim was filed or the claims will be forever**
 28 **barred.**

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

30
 31 _____
 32 CLERK OF THE _____ COURT
 33 FOR _____ COUNTY, INDIANA

34 SECTION 2. IC 29-1-7-16.5 IS ADDED TO THE INDIANA CODE
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 36 1, 2015]: **Sec. 16.5. (a) At any time:**

37 **(1) after the death of the decedent;**

38 **(2) before a petition for the appointment of a personal**
 39 **representative is filed under IC 29-1-7; and**

40 **(3) not later than nine (9) months after the death of a**
 41 **decedent;**

42 **a person having a claim against the decedent's estate may file a**
notice to preserve claim with the clerk of the court having probate



1 jurisdiction in the county in which the decedent resided.

2 (b) The clerk shall collect a fee of twenty-five dollars (\$25) for
3 the filing of a notice to preserve claim. The clerk shall deposit the
4 fee in the clerk's record perpetuation fund under IC 33-37-5-2.

5 (c) A notice to preserve claim shall include the following
6 information:

7 (1) The name and address of the person having the claim.

8 (2) A brief description of the claim.

9 (3) The amount of each claim.

10 (4) If the claim has been assigned, the name of the original
11 creditor.

12 (d) A notice to preserve claim may include one (1) or more
13 claims owed to the person filing the notice.

14 (e) A claim described in a notice to preserve claim may be
15 assigned to another person at any time after the filing of the notice.
16 A claim included in a notice to preserve a claim that is assigned to
17 another person is preserved by the notice as if it had not been
18 assigned.

19 (f) A notice to preserve claim expires eighteen (18) months after
20 the death of the decedent.

21 SECTION 3. IC 29-1-14-1 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) Except as
23 provided in IC 29-1-7-7, all claims against a decedent's estate, other
24 than expenses of administration and claims of the United States, the
25 state, or a subdivision of the state, whether due or to become due,
26 absolute or contingent, liquidated or unliquidated, founded on contract
27 or otherwise, shall be forever barred against the estate, the personal
28 representative, the heirs, devisees, and legatees of the decedent, unless
29 filed with the court in which such estate is being administered within:

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

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

35 whichever is later.

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

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

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



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

5 (d) All claims barrable under subsection (a) shall be barred if not
 6 filed within **the earlier of:**

7 **(1) nine (9) months after if the claimant did not file a notice to**
 8 **preserve claim under IC 29-1-7-16.5:**

9 **(A) three (3) months after the:**

10 **(i) date of the first published notice to creditors; or**

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

14 **(B) two (2) months after notice of administration was**
 15 **served if notice of administration was served more than**
 16 **one (1) month after first publication of notice; or**

17 **(C) nine (9) months after the death of the decedent;**

18 **(2) the deadlines provided in subsection (d)(1) if the claimant**
 19 **filed a notice to preserve claim under IC 29-1-7-16.5 and the**
 20 **claimant was served with a notice of administration before**
 21 **nine (9) months after the death of the decedent; or**

22 **(3) eighteen (18) months after the death of the decedent if the**
 23 **claimant filed a notice to preserve claim under IC 29-1-7-16.5**
 24 **and the claimant was not served with a notice of**
 25 **administration. the death of the decedent; or**

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

29 (f) Nothing in this section shall affect or prevent the enforcement of
 30 a claim for injury to person or damage to property arising out of
 31 negligence against the estate of a deceased tortfeasor within the period
 32 of the statute of limitations provided for the tort action. A tort claim
 33 against the estate of the tortfeasor may be opened or reopened and suit
 34 filed against the special representative of the estate within the period
 35 of the statute of limitations of the tort. Any recovery against the tort
 36 feator's estate shall not affect any interest in the assets of the estate
 37 unless the suit was filed within the time allowed for filing claims
 38 against the estate. The rules of pleading and procedure in such cases
 39 shall be the same as apply in ordinary civil actions.

40 SECTION 4. [EFFECTIVE JULY 1, 2015] **(a) IC 29-1-7-7 and**
 41 **IC 29-1-14-1, both as amended by this act, apply to the estate of an**
 42 **individual whose death occurs after June 30, 2015.**



1 **(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);

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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.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 65, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 26, after "if" insert ":",

Page 2, line 26, strike "more than:".

Page 2, line 27, strike "nine (9) months" and insert "**the claimant did not file a notice to preserve claim under IC 29-1-7-16.5 and**

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more than nine (9) months".

Page 2, line 28, delete "or".

Page 2, delete lines 29 through 30, begin a new line block indented and insert:

"(2) the claimant filed a notice to preserve claim under IC 29-1-7-16.5, the claimant was served with a notice of administration before nine (9) months after the death of the decedent, and more than nine (9) months have elapsed since the death of the decedent; or

(3) the claimant filed a notice to preserve claim under IC 29-1-7-16.5, the claimant was not served with a notice of administration before nine (9) months after the death of the decedent, and more than eighteen (18) months have elapsed since the death of the decedent."

Page 2, line 31, delete "whichever is later."

Page 3, line 8, after "within" insert ":".

Page 3, between lines 8 and 9, begin a new paragraph and insert:

"(The personal representative or his or her agent shall select one (1) and only one (1) appropriate choice on any notice that is served on a creditor.)"

Page 3, line 9, strike "three", begin a new line block indented and insert "**(1) Three**".

Page 3, line 10, reset in roman "earlier,".

Page 3 line 11, delete "later,".

Page 3, between lines 11 and 12, begin a new line block indented and insert:

"(2) Two (2) months after the date this notice was served, or within nine (9) months after the decedent's death, whichever is earlier, or the claims will be forever barred.

(3) Eighteen (18) months after the decedent's death if a notice to preserve claim was filed or the claims will be forever barred."

Page 3, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 2. IC 29-1-7-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16.5. (a) At any time:

(1) after the death of the decedent;

(2) before a petition for the appointment of a personal representative is filed under IC 29-1-7; and

(3) not later than nine (9) months after the death of a decedent;



a person having a claim against the decedent's estate may file a notice to preserve claim with the clerk of the court having probate jurisdiction in the county in which the decedent resided.

(b) The clerk shall collect a fee of twenty-five dollars (\$25) for the filing of a notice to preserve claim. The clerk shall deposit the fee in the clerk's record perpetuation fund under IC 33-37-5-2.

(c) A notice to preserve claim shall include the following information:

- (1) The name and address of the person having the claim.
- (2) A brief description of the claim.
- (3) The amount of each claim.
- (4) If the claim has been assigned, the name of the original creditor.

(d) A notice to preserve claim may include one (1) or more claims owed to the person filing the notice.

(e) A claim described in a notice to preserve claim may be assigned to another person at any time after the filing of the notice. A claim included in a notice to preserve a claim that is assigned to another person is preserved by the notice as if it had not been assigned.

(f) A notice to preserve claim expires eighteen (18) months after the death of the decedent."

Page 4, line 1, delete "the later of:" and insert "the earlier of:".

Page 4, line 2, strike "nine (9) months".

Page 4, line 2, delete "from" and insert "if the claimant did not file a notice to preserve claim under IC 29-1-7-16.5:

(A) three (3) months after the:

- (i) date of the first published notice to creditors; or
- (ii) 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;

(B) two (2) months after notice of administration was served if notice of administration was served more than one (1) month after first publication of notice; or

(C) nine (9) months after the death of the decedent;

(2) the deadlines provided in subsection (d)(1) if the claimant filed a notice to preserve claim under IC 29-1-7-16.5 and the claimant was served with a notice of administration before nine (9) months after the death of the decedent; or

(3) eighteen (18) months after the death of the decedent if the claimant filed a notice to preserve claim under



IC 29-1-7-16.5 and the claimant was not served with a notice of administration."

Page 4, delete lines 3 through 8.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 65 as printed February 18, 2015.)

STEUERWALD

Committee Vote: yeas 11, nays 0.

