

2013 -- H 5370 SUBSTITUTE A

LC01085/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO PROBATE PRACTICE AND PROCEDURE - CLAIMS AGAINST
DECEDENTS' ESTATES

Introduced By: Representatives Marcello, Blazejewski, Shekarchi, Lima, and Lally

Date Introduced: February 12, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 33-11-5.1 of the General Laws in Chapter 33-11 entitled "Claims
2 Against Decedents' Estates" is hereby amended to read as follows:

3 **33-11-5.1. Duty to notify known or reasonably ascertainable creditors.** -- (a) If the
4 identity of a creditor of the decedent's is known to or reasonably ascertainable by the personal
5 representative, the personal representative shall, within a reasonable period of time after
6 qualification, take such steps as are reasonably necessary to ensure that such creditor receives or
7 has received ~~actual~~ notice of the commencement of the decedent's estate. The sending of a notice
8 in the form contained in subsection (b) by the personal representative to the creditor at his/her or
9 its last known address, by first class mail, postage prepaid, shall be deemed a means, but not the
10 exclusive means, of satisfying the requirements of this section. The personal representative is not
11 liable to a creditor or to a successor personal representative of the decedent for giving or failing to
12 give notice under this section. (b) A personal representative shall be conclusively presumed to
13 have complied with this section by sending a written notice in substantially the following form:

14 STATE OF RHODE ISLAND PROBATE COURT OF
15 COUNTY OF _____ THE _____
16 ESTATE OF (NAME OR ESTATE) (NO.) _____

17 NOTICE OF COMMENCEMENT OF PROBATE

18 To: (Name of Creditor)

1 (last known address of creditor)

2 Notice is hereby given by (name of personal representative) that a probate estate has been
3 commenced for (name of decedent) in the Probate Court of the (name of municipality, address of
4 court) docket no. _____, said (name of fiduciary) having been qualified on (date of
5 qualification).

6 A creditor must present a written statement of the claim indicating its basis, the amount
7 claimed, the name and address of the claimant, and the name and address of the claimant's
8 attorney (if any) within six (6) months after qualification. Claims should be mailed to the personal
9 representative or attorney named below and filed with the clerk of the probate court.

10 _____
11 Name and address of
12 Estate Personal Representative or
13 Attorney
14 _____
15 Date

16 [\(c\) In all cases where the decedent was fifty-five \(55\) years or older at the time of death,](#)
17 [the personal representatives shall give notice as required by this section to the executive office of](#)
18 [health and human services in accordance with section 40-8-15.](#)

19 SECTION 2. This act shall take effect upon passage and shall apply to all pending and
20 future petitions.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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1 This act would require that when a decedent is fifty-five (55) years or older, that notice of
2 the death be sent to the executive office of health and human services in accordance with section
3 40-8-15.

4 This act would also repeal the provisions of the general laws that required that notice be
5 given to certain persons specified in section 33-22-2 ten (10) days before the date set for a
6 petition heard by the probate court.

7 This act would take effect upon passage, and would apply to all pending and future
8 petitions.

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