

HOUSE BILL 3237

By Elam

AN ACT to amend Tennessee Code Annotated, Title 8;
Title 29; Title 30; Title 32; Title 33; Title 35 and
Title 56, relative to probate matters.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-21-401(c)(1), is amended by deleting the language "two hundred twenty-five dollars (\$225)" and by substituting instead the language "including giving notice of the opening of the estate to the department of revenue, two hundred thirty dollars (\$230)".

SECTION 2. Tennessee Code Annotated, Section 8-21-401(c)(2), is amended by deleting the language ", thirty-six dollars (\$36.00)" and by substituting instead the language "and giving notice of the opening of the estate to the department of revenue, forty-one dollars (\$41.00)".

SECTION 3. Tennessee Code Annotated, Section 29-14-101, is amended by deleting the language "joint stock company" and by substituting instead the language "joint stock company, trust".

SECTION 4. Tennessee Code Annotated, Section 30-2-306(b), is amended by deleting the language prescribing the form of the notice in its entirety and by substituting instead the following language:

NOTICE TO CREDITORS

Estate of _____ (name of deceased)

Notice is hereby given that on the _____ day of _____, 20____
letters testamentary (or of administration as the case may be) in respect of the estate of
_____ (name of deceased) who died _____,

20____ were issued to the undersigned by the _____ court of

_____ County, Tennessee. All persons, resident and nonresident, having claims, matured or unmatured, against the estate are required to file the same with the clerk of the above named court on or before the earlier of the dates prescribed in (1) or (2) otherwise their claims will be forever barred:

(1)

(A) Four (4) months from the date of the first publication (or posting, as the case may be) of this notice if the creditor received an actual copy of this notice to creditors at least sixty (60) days before the date that is four (4) months from the date of the first publication (or posting); or

(B) Sixty (60) days from the date the creditor received an actual copy of the notice to creditors if the creditor received the copy of the notice less than sixty (60) days prior to the date that is four (4) months from the date of first publication (or posting) as described in (1)(A); or

(2) Twelve (12) months from the decedent's date of death.

This _____ day of _____, 20____

(Signed) _____

Personal Representative

Attorney for the Estate _____

Clerk _____

SECTION 5. Tennessee Code Annotated, Section 30-2-307(a)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(1) All claims against the estate arising from a debt of the decedent shall be barred unless filed within the period prescribed in the notice published or posted in accordance with § 30-2-306(b).

SECTION 6. Tennessee Code Annotated, Section 30-2-307(a)(2), is amended by deleting the language "After the expiration of the period prescribed in § 30-2-306(b), but before" and by substituting instead the language "Before".

SECTION 7. Tennessee Code Annotated, Section 30-2-319, is amended by deleting the section in its entirety and by substituting instead the following language:

30-2-319.

All uncontested claims and all contested claims that have been finally adjudged and allowed shall be paid by the personal representative as soon as practicable (not in any event to exceed ninety (90) days) after the expiration of the date on which the personal representative could file an exception to the claim pursuant to § 30-2-314(a), if, after having segregated sufficient assets to meet the contingent liabilities referred to in § 30-2-317, adequate assets are in the personal representative's hands for this purpose, payment being made according to the classification of the claims.

SECTION 8. Tennessee Code Annotated, Section 32-3-112, is amended by deleting the language "decendent's will or trust agreement provides" and by substituting instead the language "decendent's will or trust agreement or § 32-3-105 provides".

SECTION 9. Tennessee Code Annotated, Section 33-3-105, is amended by deleting the language "or" at the end of subdivision (5); by deleting the language "." at the end of subdivision (6) and by substituting instead the language "; or"; and by adding the following language as a new subdivision (7):

(7) Except as otherwise prohibited by federal law, the information is released by a health care provider as defined by § 68-11-1802, as amended from time to time, to an insurance company as defined by § 56-1-102, as amended from time to time, for the sole purpose of permitting the insurance company to determine whether to pay benefits of an insurance policy or annuity contract as the result of the death of the patient of the health care provider. Any release pursuant to this subdivision (7) shall be subject to the conditions prescribed in Section 10 of this act.

SECTION 10. Tennessee Code Annotated, Title 56, Chapter 7, Part 1, is amended by adding the following language as a new, appropriately designated section:

56-7-13_.

(a) Except as prohibited by federal law, any health care provider as defined in § 68-11-1802, as amended from time to time, may release confidential behavioral health and medical health information of a deceased to an insurance company under the following conditions:

(1) Prior to the release, the health care provider receives certification from the person requesting the release of the information (the "requester") that the information is requested solely for the purpose of permitting an insurance company to determine whether to pay benefits of an insurance policy or an annuity contract as a result of the death of the patient and that the requester has sound reason to believe that the requester is a designated beneficiary of such policy or that the beneficiary of the policy is a designated provider of funeral or burial services with respect to the deceased patient; and

(2) The health care provider, with respect to the delivery of the information to the insurance company, states to the insurance company that the information is being released solely for the purpose of permitting the processing of a claim or claims with respect to one (1) or more insurance policies or annuity contracts payable as a result of the death of the deceased patient and that the insurance company shall not re-release the information to any person unless in compliance with, or unless otherwise required by, applicable law.

(b) Notwithstanding the provisions of this part or any other law to the contrary, if a health care provider discloses confidential behavioral health and medical information to an insurance company and complies with the conditions prescribed in subdivisions

(a)(1) and (2), then the release is lawful and the health care provider shall incur no liability from such disclosure.

(c)

(1) No requester shall knowingly make a false certification to a health care provider for the purpose of obtaining the release of information pursuant to this section.

(2) A violation of subdivision (c)(1) is a Class A misdemeanor.

SECTION 11. Tennessee Code Annotated, Section 35-15-203, is amended by deleting the language of the section in its entirety and by substituting instead the following language:

35-15-203.

Chancery courts and other courts of record having probate jurisdiction:

(1) To the exclusion of all other courts, have concurrent jurisdiction over proceedings in this state brought by a trustee or beneficiary concerning the administration of a trust; and

(2) Have concurrent jurisdiction with other courts of record in this state over other proceedings involving a trust.

SECTION 12. Tennessee Code Annotated, Section 35-15-302, is amended by deleting the language "general testamentary".

SECTION 13. The Tennessee Code Commission is authorized to publish revised comments to Tennessee Code Annotated, Section 35-15-302, if such comments are provided to the Commission as soon as is practicable after enactment, but no later than June 15, 2012.

SECTION 14. Section 11 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to any proceeding occurring on or after July 1, 2004, because the section clarifies existing law as enacted by Chapter 537, § 16 of the Tennessee

Public Acts of 2004. All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.