

SENATE FILE NO. SF0111

Summary probate proceedings.

Sponsored by: Senator(s) Perkins and Representative(s) Greear

A BILL

for

1 AN ACT relating to the Wyoming Probate Code; providing
2 requirements and procedures for distribution of property by
3 affidavit and summary procedures for distribution of
4 property; providing a definition; and providing for an
5 effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 2-1-206 through 2-1-208 are created
10 to read:

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12 **2-1-206. Proof of publication and service; filing**
13 **with clerk.**

14

1 (a) The proof of publication of the notice required
2 under W.S. 2-1-205(d) shall be by affidavit of the
3 publisher.

4

5 (b) The proof of service under W.S. 2-1-205(d) shall
6 be signed by a distributee who signed the application or
7 his attorney and shall state the name and address of the
8 person served and the manner of service.

9

10 (c) The affidavit for proof of publication and the
11 proof of service shall be filed with the clerk of court no
12 less than twenty (20) days after the first date of
13 publication.

14

15 (d) Proof of service by a distributee shall be signed
16 under penalty of perjury.

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18 **2-1-207. Missing distributees.**

19

20 The person or persons claiming to be the distributee or
21 distributees of the decedent who filed the application
22 shall make reasonable efforts to identify and locate all
23 distributees of the decedent. If all distributees are not

1 located, the distributee or distributees filing the
2 application shall advise the court of the efforts made to
3 locate missing distributees. If a distributee cannot be
4 located, the court may grant the application, but may
5 direct in the decree that the share of the missing
6 distributee or distributees be paid to the state treasurer
7 under the Uniform Unclaimed Property Act, W.S. 34-24-101
8 through 34-24-140. The person or persons claiming to be a
9 distributee or distributees of the decedent who filed the
10 application shall report to the court upon payment of the
11 share of the missing distributee or distributees.

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13 **2-1-208. Venue generally.**

14

15 (a) An application for a decree under W.S. 2-1-205
16 shall be filed as follows:

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18 (i) For estates that only include personal
19 property:

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21 (A) If the decedent was a resident of
22 Wyoming at the time of his death, in the county of which
23 the decedent was a resident;

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(B) If the decedent was not a resident of Wyoming at the time of his death, in a county in which any part of the estate is located.

(ii) If the estate includes real property, in any county in which any parcel or part of the real property is located.

Section 2. W.S. 2-1-201(a)(intro), (i), (iii), (iv), by creating a new paragraph (v), (c), by creating a new subsection (d) and by amending and renumbering (d) as (e), 2-1-202 and 2-1-205 are amended to read:

2-1-201. Payment of indebtedness and delivery of tangible personal property or instruments evidencing debt.

(a) Not earlier than thirty (30) days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or

1 the instrument evidencing the debt, obligation, stock or
2 chose in action to the person or persons claiming to be the
3 distributee or distributees of the property or the attorney
4 for the distributee or distributees, upon being presented
5 an affidavit, filed as provided by subsection (c) of this
6 section, made by or on behalf of the distributee or
7 distributees stating:

8
9 (i) The value of the entire estate, located in
10 Wyoming ~~or otherwise~~ subject to ~~probate~~ administration, in
11 ~~this state~~ either testate or intestate, less liens and
12 encumbrances, does not exceed two hundred thousand dollars
13 (\$200,000.00);

14
15 (iii) No application for appointment of a
16 personal representative is pending or has been granted in
17 any jurisdiction in this state; ~~and~~

18
19 (iv) The person or persons claiming to be a
20 distributee or distributees are entitled to payment or
21 delivery of the property of the decedent; the facts
22 concerning the distributees' relationship to the decedent,
23 and there are no other distributees of the decedent having

1 a right to succeed to the property under probate
2 proceedings ~~in any jurisdiction; and~~

3
4 (v) If an application for appointment of a
5 personal representative has been made in a jurisdiction
6 outside of Wyoming:

7
8 (A) The name and address of the proposed or
9 appointed personal representative, the date of the
10 application and the date of any appointment; and

11
12 (B) The title of the proceedings and name
13 of the court and jurisdiction in which the application was
14 made.

15
16 (c) When the affidavit is filed with the county clerk
17 and a certified copy is presented to ~~a party~~ any person
18 with custody of the decedent's property or a holder of
19 ~~assets~~ the decedent's property, the affidavit shall be
20 honored and have the ~~same effects~~ effect as provided ~~for~~ in
21 ~~subsections (a), (b) and (d) of~~ this section and W.S.
22 2-1-202.

23

1 (d) The county clerk of the county in which any
2 vehicle is registered shall transfer title of the vehicle
3 from the decedent to the distributee or distributees upon
4 presentation of an affidavit as provided in subsection (a)
5 of this section.

6
7 ~~(d)~~ (e) Upon presentation of an affidavit as provided
8 in ~~subsections (a) and (c) of this section, to any bank,~~
9 ~~savings and loan institution, credit union or any other~~
10 ~~like depository~~ a person with custody of the decedent's
11 property or a holder of the decedent's property shall pay
12 or deliver any of the decedent's property held or on
13 deposit in the sole name of the decedent, together with the
14 interest and dividends thereon, to the distributee or
15 distributees. A receipt for the payment by the distributee
16 ~~paid is~~ or distributes or proof of delivery by the
17 custodian or holder of the decedent's property shall
18 constitute a valid and sufficient release and discharge for
19 the payment or delivery made.

20

21 **2-1-202. Effect; refusal to pay, deliver.**

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1 (a) The person having custody of the decedent's
2 property or a holder of the decedent's property:

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4 (i) Paying, delivering, transferring or issuing
5 personal property or the evidence thereof pursuant to
6 affidavit is discharged and released to the same extent as
7 if he dealt with a personal representative of the
8 decedent; and

9
10 (ii) ~~He~~Is not required to see to the
11 application of the personal property or evidence thereof or
12 to inquire into the truth of any statement in the
13 affidavit.

14
15 (b) If any person having custody of the decedent's
16 property or a holder of decedent's property to whom an
17 affidavit is delivered refuses to pay, deliver, transfer or
18 issue any personal property or evidence thereof, ~~it~~the
19 property may be recovered or its payment, delivery,
20 transfer or issuance compelled upon proof of right in an
21 action by or on behalf of the persons entitled thereto. If
22 an action is brought under this subsection, the court shall
23 award reasonable attorney's fees and costs of the action to

1 the plaintiff if the court finds that the decedent's
2 property was not paid, delivered, transferred or issued
3 within forty-five (45) days after presentation of the
4 affidavit under W.S. 2-1-201 unless the court finds just
5 cause for the refusal to pay, deliver or transfer the
6 property.

7
8 (c) Any person to whom payment, delivery, transfer or
9 issuance is made is answerable and accountable to a
10 personal representative of the estate or to any other
11 person having a like or superior right.

12
13 (d) For purposes of this article, "holder" means any
14 person who is in possession of property of the decedent and
15 includes but is not limited to a security broker, security
16 dealer, bank, savings and loan institution, credit union or
17 any other like depository.

18
19 **2-1-205. Summary procedure for distribution of**
20 **personal or real property; application for decree; notice**
21 **by publication; presumptive evidence of title; effect of**
22 **false statements.**

23

1 (a) If any person dies who is the owner of personal
2 or real property, including mineral interests, but whose
3 entire estate including personal property does not exceed
4 two hundred thousand dollars (\$200,000.00), less liens and
5 encumbrances, the person or persons claiming to be the
6 distributee or distributees of the decedent may file, not
7 earlier than thirty (30) days after the decedent's death,
8 an application for a decree ~~in the district court of the~~
9 ~~county where the property is situated~~ of summary
10 distribution of property.

11
12 (b) The application shall be sworn to and signed by
13 ~~each~~ any person claiming to be a distributee and shall
14 state the facts required by W.S. 2-1-201(a)(i) through ~~(iv)~~
15 (v). The application shall also fully describe any real
16 property, including any mineral interests, being claimed.

17
18 (c) The application shall have attached thereto a
19 sworn report of appraisal or broker's price opinion as
20 defined by W.S. 33-28-102(b)(lxii), made by a person who
21 has no legal interest in the estate, showing the value on
22 the date of the decedent's death of all interests owned by

1 the decedent in real property located in Wyoming, including
2 mineral interests.

3
4 ~~(c)(d)~~ After publication of the A notice of
5 application for a decree of summary distribution of
6 property shall be published once a week for two (2)
7 consecutive weeks in a newspaper of general circulation in
8 ~~the county~~ each county in which real property is located in
9 Wyoming and where the application was filed, or otherwise
10 as the court may order. ~~the court shall consider the~~
11 ~~application~~ The notice of application shall be served by
12 first class mail to the last known address, with copy of
13 application attached, to all other distributees, so far as
14 known, or to their guardians if any of them are minors, or
15 to their personal representatives if any of them are dead
16 and to any known creditors no less than ten (10) days after
17 the date of first publication.

18
19 (e) If the decedent received medical assistance
20 pursuant to W.S. 42-4-101 through 42-4-114, the state
21 department of health shall be provided a copy of the
22 application for a decree within ~~five (5)~~ ten (10) days ~~of~~
23 ~~its filing~~ after the date of first publication.

1

2 (f) If ~~it appears that the facts stated in the~~
3 ~~application are not in dispute~~ no objection to the
4 application has been filed within thirty (30) days of the
5 first date of publication, the court shall enter a decree
6 establishing the right and title to the property located in
7 Wyoming. A certified copy of the decree shall be recorded
8 in the office of the county clerk ~~and thereafter~~ of each
9 county in which the real property, including mineral
10 interests, is located. If there is no real property, the
11 decree shall be filed in the county in which the
12 application for a decree of summary distribution was filed.
13 Upon recording of the decree, the decree and the record
14 thereof shall be presumptive evidence of title to the
15 property. If an objection to the application is filed
16 within thirty (30) days of the first date of publication,
17 the court shall set the matter for a hearing, after which
18 the court shall enter an order either denying or granting
19 the application.

20

21 ~~(d)~~ (g) In the event that the decree is entered as the
22 result of ~~a petition~~ an application containing a material
23 false ~~statements~~ statement, title to the property which

1 passes as a result of the decree shall not be affected but
2 the person or persons signing as distributee or
3 distributees and knowingly swearing to a material false
4 statement in the application shall be subject to the
5 appropriate penalties for perjury. Any distributee who is
6 damaged by an application containing a material false
7 statement may file an action to amend the decree, and for
8 damages. The action shall be filed in the court in which
9 the application was filed. Any action under this paragraph
10 is barred unless commenced within two (2) years from the
11 entry of the decree.

12

13 ~~(e)~~(h) The procedure provided by this section may be
14 used in addition to the affidavit procedure provided by
15 W.S. 2-1-201.

16

17 **Section 3.** This act is effective July 1, 2015.

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(END)