

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; providing legislative  
5 findings; and providing for an 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:

11

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  
12 prior to the court taking action on the application.

13

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

16

17           **2-1-207. Missing distributees.**

18

19           (a) The person or persons claiming to be the  
20 distributee or distributees of the decedent who filed the  
21 application shall make reasonable efforts to identify and  
22 locate all living distributees of the decedent having a  
23 right to succeed to the interests of the decedent in the

1 property described in the application. If all distributees  
2 are not located, the distributee or distributees filing the  
3 application shall advise the court of the efforts made to  
4 locate missing distributees. "Missing distributees" means  
5 distributees who were identified pursuant to this  
6 subsection but who could not be located. If a distributee  
7 cannot be located, the court shall grant the application as  
8 follows:

9

10 (i) In the case of an interest in real property,  
11 the interest shall be set over to the missing distributee  
12 or distributees if known; and

13

14 (ii) In the case of all other interests, the  
15 court may direct that the share of the missing distributee  
16 or distributees be paid to the state treasurer under the  
17 Uniform Unclaimed Property Act, W.S. 34-24-101 through  
18 34-24-140.

19

20 (b) The person or persons claiming to be a  
21 distributee or distributees of the decedent who filed the  
22 application shall report to the court upon payment of the  
23 share of the missing distributee or distributees.

1

2 (c) The court may order the missing distributee's or  
3 distributees' share to be liquidated for value.

4

5 **2-1-208. Venue generally.**

6

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

9

10 (i) If the decedent was a resident of Wyoming at  
11 the time of his death, in the county of which the decedent  
12 was a resident;

13

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

17

18 **Section 2.** W.S. 2-1-201(a)(intro), (i), (iii), (iv),  
19 by creating a new paragraph (v), (c), by creating a new  
20 subsection (d) and by amending and renumbering (d) as (e),  
21 2-1-202 and 2-1-205 are amended to read:

22

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

3  
4           (a) Not earlier than thirty (30) days after the death  
5 of a decedent, any person indebted to the decedent or  
6 having possession of tangible personal property or an  
7 instrument evidencing a debt, obligation, stock or chose in  
8 action belonging to the decedent shall make payment of the  
9 indebtedness or deliver the tangible personal property or  
10 the instrument evidencing the debt, obligation, stock or  
11 chose in action to the person or persons claiming to be the  
12 distributee or distributees of the property or the attorney  
13 for the distributee or distributees, upon being presented  
14 an affidavit, filed as provided by subsection (c) of this  
15 section, made by or on behalf of the distributee or  
16 distributees stating:

17  
18           (i) The value of the entire estate, located in  
19 Wyoming ~~or otherwise~~ subject to ~~probate~~ administration, in  
20 this state either testate or intestate, less liens and  
21 encumbrances, does not exceed two hundred thousand dollars  
22 (\$200,000.00);

23

1           (iii) No application for appointment of a  
2 personal representative is pending or has been granted in  
3 any jurisdiction in this state; ~~and~~

4  
5           (iv) The person or persons claiming to be a  
6 distributee or distributees are entitled to payment or  
7 delivery of the property of the decedent; the facts  
8 concerning the distributee's or distributees' relationship  
9 to the decedent, ~~7~~ and concerning the legal basis upon which  
10 the distributee or distributees claim entitlement to such  
11 property, including facts regarding any intervening estates  
12 or other parties who may have a claim of entitlement from  
13 the decedent and from whom the applicant distributee or  
14 distributees claim and that there are no other distributees  
15 of the decedent having a right to succeed to the property  
16 under probate proceedings. ~~7~~ in any jurisdiction; and

17  
18           (v) If an application for appointment of a  
19 personal representative has been made in a jurisdiction  
20 outside of Wyoming:

21

1                   (A) The name and address of the proposed or  
2 appointed personal representative, the date of the  
3 application and the date of any appointment; and  
4

5                   (B) The title of the proceedings and name  
6 of the court and jurisdiction in which the application was  
7 made.  
8

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

17           (d) The county clerk of the county in which any  
18 vehicle is registered shall transfer title of the vehicle  
19 from the decedent to the distributee or distributees upon  
20 presentation of an affidavit as provided in subsection (a)  
21 of this section.  
22

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

14

15           **2-1-202. Effect; refusal to pay, deliver.**

16

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

19

20           (i) Paying, delivering, transferring or issuing  
21 personal property or the evidence thereof pursuant to  
22 affidavit is discharged and released to the same extent as



1 if he dealt with a personal representative of the  
2 decedent;~~;~~ and

3  
4 (ii) ~~He~~ Is not required to see to the  
5 application of the personal property or evidence thereof or  
6 to inquire into the truth of any statement in the  
7 affidavit.

8  
9 (b) If any person having custody of the decedent's  
10 property or a holder of decedent's property to whom an  
11 affidavit is delivered refuses to pay, deliver, transfer or  
12 issue any personal property or evidence thereof, ~~it~~ the  
13 property may be recovered or its payment, delivery,  
14 transfer or issuance compelled upon proof of right in an  
15 action by or on behalf of the persons entitled thereto. If  
16 an action is brought under this subsection, the court shall  
17 award reasonable attorney's fees and costs of the action to  
18 the plaintiff if the court finds that the decedent's  
19 property was not paid, delivered, transferred or issued  
20 within forty-five (45) days after presentation of the  
21 affidavit under W.S. 2-1-201 unless the court finds just  
22 cause for the refusal to pay, deliver or transfer the  
23 property.

1

2       (c) Any person to whom payment, delivery, transfer or  
3 issuance is made is answerable and accountable to a  
4 personal representative of the estate or to any other  
5 person having a like or superior right.

6

7       (d) For purposes of this article, "holder" means any  
8 person who is in possession of property of the decedent and  
9 includes but is not limited to a security broker, security  
10 dealer, bank, savings and loan institution, credit union or  
11 any other like depository.

12

13       **2-1-205. Summary procedure for distribution of**  
14 **personal or real property; application for decree; notice**  
15 **by publication; presumptive evidence of title; effect of**  
16 **false statements.**

17

18       (a) If any person dies who is the owner of personal  
19 or real property, including mineral interests, but whose  
20 entire estate including personal property does not exceed  
21 two hundred thousand dollars (\$200,000.00), less liens and  
22 encumbrances, the person or persons claiming to be the  
23 distributee or distributees of the decedent may file, not

1 earlier than thirty (30) days after the decedent's death,  
2 an application for a decree ~~in the district court of the~~  
3 ~~county where the property is situated.~~ of summary  
4 distribution of property.

5  
6 (b) The application shall be sworn to and signed by  
7 ~~each~~ any person claiming to be a distributee and shall  
8 state the facts required by W.S. 2-1-201(a)(i) through ~~(iv)~~  
9 (v). The application shall also fully describe any real  
10 property, including any mineral interests, being claimed.

11  
12 (c) The application shall have attached thereto a  
13 sworn report of ~~appraisal~~ value which may be based upon a  
14 broker's price opinion as defined by W.S.  
15 33-28-102(b)(lxii), made by a person who has no legal  
16 interest in the estate, showing the value on the date of  
17 the decedent's death of all interests owned by the decedent  
18 in real property located in Wyoming, including mineral  
19 interests.

20  
21 ~~(e)~~ (d) ~~After publication of the~~ A notice of  
22 application for a decree of summary distribution of  
23 property shall be published once a week for two (2)

1 consecutive weeks in a newspaper of general circulation in  
2 the county, ~~or otherwise as the court may order, the court~~  
3 ~~shall consider the application~~ in which the application was  
4 filed. The notice of application shall be served by first  
5 class mail to the last known address, with copy of  
6 application attached, to the surviving spouse of the  
7 decedent, if any, and to all other distributees, so far as  
8 known, or to their guardians if any of them are minors, or  
9 to their personal representatives if any of them are  
10 deceased and to any reasonably ascertainable creditors no  
11 less than ten (10) days after the date of first  
12 publication.

13  
14 (e) If the decedent received medical assistance  
15 pursuant to W.S. 42-4-101 through 42-4-114, the state  
16 department of health shall be provided a copy of the  
17 application for a decree within ~~five (5)~~ ten (10) days ~~of~~  
18 ~~its filing~~ after the date of first publication.

19  
20 (f) If ~~it appears that the facts stated in the~~  
21 ~~application are not in dispute~~ no objection to the  
22 application has been filed within thirty (30) days of the  
23 first date of publication, the court shall enter a decree

1 establishing the right and title to the property located in  
2 Wyoming. A certified copy of the decree shall be recorded  
3 in the office of the county clerk ~~and thereafter~~ of each  
4 county in which the real property, including mineral  
5 interests, is located. Upon recording of the decree, the  
6 decree and the record thereof shall be presumptive evidence  
7 of title to the property. If an objection to the  
8 application is filed within thirty (30) days of the first  
9 date of publication, the court shall set the matter for a  
10 hearing, after which the court shall enter an order either  
11 denying or granting the application.

12  
13 ~~(d)~~ (g) In the event that the decree is entered as the  
14 result of ~~a petition~~ an application containing a materially  
15 false ~~statements~~ statement, title to the property which  
16 passes as a result of the decree shall not be affected but  
17 the person or persons signing as distributee or  
18 distributees and knowingly swearing to a materially false  
19 statement in the application shall be subject to the  
20 appropriate penalties for perjury. Any distributee who is  
21 damaged by an application containing a material false  
22 statement may file an action to amend the decree, and for  
23 damages. The action shall be filed in the court in which

1 the application was filed. Any action under this paragraph  
2 is barred unless commenced within two (2) years from the  
3 entry of the decree.

4

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

8

9 **Section 3.** This act is intended as a clarification of  
10 existing law. The Wyoming legislature intends to make no  
11 substantive change to prior law including, but not limited  
12 to powers, duties, authorities, obligations,  
13 administration, confidentiality, remedies or statutes of  
14 limitation. This act is not intended to affect the validity  
15 of any rule or regulation promulgated prior to the  
16 effective date of this act.

17

18 **Section 4.** This act is effective July 1, 2015.

19

20

(END)