

SENATE FILE NO. SF0072

Foreclosure in probate.

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

A BILL

for

1 AN ACT relating to foreclosure; providing that a  
2 foreclosure sale of property held by a decedent whose  
3 estate is in probate may not occur without supervision of  
4 the probate court; and providing for an effective date.

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

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8 **Section 1.** W.S. 1-18-101 by creating a new subsection  
9 (c) and 2-2-101 are amended to read:

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11 **1-18-101. Sale to be at public venue; hours of sale;**  
12 **notice required; mortgagee, judgment creditor or lienor**  
13 **must be present or waive; limitation; penalty.**

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15 (c) If a mortgagor has died and the probate process  
16 is not complete, a foreclosure sale shall occur only under

1 the supervision of the probate court or if the personal  
2 representative and the mortgagee agree and the agreement is  
3 approved by the probate court after a hearing providing  
4 notice to all heirs, beneficiaries and creditors.

5  
6 **2-2-101. Exclusive jurisdiction conferred on district**  
7 **courts.**

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9 The district courts of the state have exclusive original  
10 jurisdiction of all matters relating to the probate and  
11 contest of wills and testaments, foreclosure where the  
12 decedent is the mortgagor as provided under W.S.  
13 1-18-101(c), the granting of letters testamentary and of  
14 administration, and the settlement and distribution of  
15 decedents' estates. The court granting the letters has  
16 exclusive jurisdiction of all matters touching the  
17 settlement and distribution of the estates for which  
18 letters have been granted. The jurisdiction over subject  
19 matter of the district court sitting in probate, sometimes  
20 referred to in this Title 2 as the "probate court", is  
21 coextensive with the jurisdiction over subject matter of  
22 the district court in any civil action. A decree of  
23 distribution entered by the district court in probate,  
24 pursuant to W.S. 2-7-807 or 2-7-813, shall be a final

1 determination of title as to assets described therein, as  
2 to all distributees served with notice, or who have waived  
3 notice, of the hearing provided for in W.S. 2-7-807 or  
4 2-7-811, as the case may be. As to all other parties, an  
5 action may be brought and maintained at any time prior to  
6 the entry of final decree of distribution under W.S.  
7 2-7-813, by or against the personal representative in the  
8 district court, sitting in probate, seeking any legal or  
9 equitable remedy as to any interest in property, real or  
10 personal, in which the estate asserts or claims any  
11 interest. In addition, all causes cognizable in the  
12 district court in any civil action may be brought and  
13 maintained, at any time prior to the entry of final decree  
14 of distribution under W.S. 2-7-813, by or against a  
15 personal representative in the district court sitting in  
16 probate which granted the letters to the personal  
17 representative.

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19 **Section 2.** This act is effective July 1, 2012.

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(END)