

SENATE FILE NO. SF0117

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:

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 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.

17
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
24 located, the distributee or distributees filing the

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

11

12 **2-1-208. Venue generally.**

13

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

16

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

19

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

23

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

4
5 (ii) If the estate includes real property, in
6 any county in which any part of the real property is
7 located.

8
9 **Section 2.** W.S. 2-1-201(a)(intro), (i), (iii), (iv),
10 by creating a new paragraph (v), (c), by creating a new
11 subsection (d) and renumbering (d) as (e), 2-1-202 and
12 2-1-205 are amended to read:

13
14 **2-1-201. Payment of indebtedness and delivery of**
15 **tangible personal property or instruments evidencing debt.**

16
17 (a) Not earlier than thirty (30) days after the death
18 of a decedent, any person indebted to the decedent or
19 having possession of tangible personal property or an
20 instrument evidencing a debt, obligation, stock or chose in
21 action belonging to the decedent shall make payment of the
22 indebtedness or deliver the tangible personal property or
23 the instrument evidencing the debt, obligation, stock or
24 chose in action to the person or persons claiming to be the

1 distributee or distributees of the property or the attorney
2 for the distributee or distributees, upon being presented
3 an affidavit, filed as provided by subsection (c) of this
4 section, made by or on behalf of the distributee or
5 distributees stating:

6
7 (i) The value of the entire estate~~,~~ located in
8 Wyoming ~~or otherwise~~ subject to ~~probate~~ administration, in
9 ~~this state,~~ either testate or intestate, less liens and
10 encumbrances, does not exceed two hundred thousand dollars
11 (\$200,000.00);

12
13 (iii) No application for appointment of a
14 personal representative is pending or has been granted in
15 any jurisdiction in this state;~~and~~

16
17 (iv) The person or persons claiming to be a
18 distributee or distributees are entitled to payment or
19 delivery of the property of the decedent; the facts
20 concerning the distributees' relationship to the decedent,
21 and there are no other distributees of the decedent having
22 a right to succeed to the property under probate
23 proceedings~~,~~ in any jurisdiction; and

24

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

4
5 (A) The name and address of the proposed or
6 appointed personal representative, the date of the
7 application and the date of any appointment; and

8
9 (B) The title of the proceedings and name
10 of the court and jurisdiction in which the application was
11 made.

12
13 (c) When the affidavit is filed with the county clerk
14 and a certified copy is presented to ~~a party~~ any person
15 with custody of the decedent's property or a holder of
16 ~~assets~~ the decedent's property, the affidavit shall be
17 honored and have the ~~same effects~~ effect as provided ~~for~~ in
18 ~~subsections (a), (b) and (d) of~~ this section and W.S.
19 2-1-202.

20
21 (d) The county clerk of the county in which any
22 vehicle is registered shall transfer title of the vehicle
23 from the decedent to the distributee or distributees upon

1 presentation of an affidavit as provided in subsection (a)
2 of this section.

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

15
16 **2-1-202. Effect; refusal to pay, deliver.**

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

20
21 (i) Paying, delivering, transferring or issuing
22 personal property or the evidence thereof pursuant to
23 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 (c) Any person to whom payment, delivery, transfer or
2 issuance is made is answerable and accountable to a
3 personal representative of the estate or to any other
4 person having a like or superior right.

5
6 (d) For purposes of this section, "holder" means any
7 person who is in possession of property of the decedent and
8 includes but is not limited to a security broker, security
9 dealer, bank, savings and loan institution, credit union or
10 any other like depository.

11
12 2-1-205. Summary procedure for distribution of
13 personal or real property; application for decree; notice
14 by publication; presumptive evidence of title; effect of
15 false statements.

16
17 (a) If any person dies who is the owner of personal
18 or real property, including mineral interests, but whose
19 entire estate including personal property does not exceed
20 two hundred thousand dollars (\$200,000.00), less liens and
21 encumbrances, the person or persons claiming to be the
22 distributee or distributees of the decedent may file, not
23 earlier than thirty (30) days after the decedent's death,
24 an application for a decree ~~in the district court of the~~

1 ~~county where the property is situated~~ of summary
2 distribution of property.

3
4 (b) The application shall be sworn to and signed by
5 ~~each~~ any person claiming to be a distributee and shall
6 state the facts required by W.S. 2-1-201(a)(i) through ~~(iv)~~
7 (v). The application shall also fully describe any real
8 property, including any mineral interests, being claimed.

9
10 (c) The application shall have attached thereto a
11 sworn report of appraisal or broker's price opinion as
12 defined by W.S. 33-28-102(b)(lxii), made by a person who
13 has no legal interest in the estate, showing the value on
14 the date of the decedent's death of all interests owned by
15 the decedent in real property located in Wyoming, including
16 mineral interests.

17
18 ~~(e)(d)~~ After publication of the ~~A~~ notice of
19 application for a decree of summary distribution of
20 property shall be published once a week for two (2)
21 consecutive weeks in a newspaper of general circulation in
22 the county in which the application was filed, or otherwise
23 as the court may order. ~~, the court shall consider the~~
24 ~~application~~ The notice of application shall be served by

1 personal service or certified mail, with copy of
2 application attached, to all other distributees, so far as
3 known, or to their guardians if any of them are minors, or
4 to their personal representatives if any of them are dead
5 no less than three (3) days after the date of the first
6 date of publication.

7
8 (e) If the decedent received medical assistance
9 pursuant to W.S. 42-4-101 through 42-4-114, the state
10 department of health shall be provided a copy of the
11 application for a decree within ~~five (5)~~ ten (10) days of
12 its filing.

13
14 (f) If ~~it appears that the facts stated in the~~
15 ~~application are not in dispute~~ no objection to the
16 application has been filed within thirty (30) days of the
17 first date of publication, the court shall enter a decree
18 establishing the right and title to the property located in
19 Wyoming. A certified copy of the decree shall be recorded
20 in the office of the county clerk ~~and thereafter~~ of each
21 county in which the real property, including mineral
22 interests, is located. If there is no real property, the
23 decree shall be filed in the county in which the
24 application for a decree of summary distribution was filed.

1 Upon recording of the decree, the decree and the record
2 thereof shall be presumptive evidence of title to the
3 property. If an objection to the application is filed
4 within thirty (30) days of the first date of publication,
5 the court shall set the matter for a hearing and shall
6 enter an order either denying or granting the application.

7
8 ~~(d)~~(g) In the event that the decree is entered as the
9 result of ~~a petition~~an application containing false
10 statements, title to the property which passes as a result
11 of the decree shall not be affected but the person or
12 persons signing as distributee or distributees and swearing
13 to the application shall be subject to the appropriate
14 penalties for perjury. Any distributee who is damaged by an
15 application containing a false statement may file an action
16 to amend the decree and for damages. The action shall be
17 filed in the court in which the application was filed. Any
18 action under this paragraph is barred unless commenced
19 within two (2) years from the entry of the decree.

20
21 ~~(e)~~(h) The procedure provided by this section may be
22 used in addition to the affidavit procedure provided by
23 W.S. 2-1-201.

24

1 **Section 2.** This act is effective July 1, 2014.

2

3 (END)