

HB402 INTRODUCED



1 1GKPLL-1
2 By Representative South
3 RFD: Judiciary
4 First Read: 27-Apr-23
5
6 2023 Regular Session



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SYNOPSIS:

In 2022, the Legislature enacted Act 2022-427 effective April 14, 2022, which allowed certain cases for contesting a will or removal of the administration of a decedent's estate to be transferred from a probate court to a circuit court, but only for cases filed on or after January 1, 2023.

This bill would provide that the provision for a probate court to have jurisdiction for will contests and removal of the administration of a decedent's estate from probate court to circuit, and for the circuit court to have jurisdiction for will contests and removal of the administration of a decedent's estate, applies to all probate proceedings before a circuit court as of April 14, 2022, regardless of when a case was filed.

A BILL
TO BE ENTITLED
AN ACT

Relating to decedents' estates; to amend Act 2022-427, 2022 Regular Session, now appearing as Section 43-8-210, Code



HB402 INTRODUCED

29 of Alabama 1975, to specify that it shall apply to all probate
30 proceedings pending before a circuit court on the effective
31 date of Act 2022-427, regardless of when filed; and to provide
32 retroactive effect.

33 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

34 Section 1. Act 2022-427, 2022 Regular Session, now
35 appearing as Section 43-8-210, Code of Alabama, is amended to
36 read as follows:

37 "§43-8-210

38 (a) This division applies to ~~wills filed for probate on~~
39 ~~or after January 1, 2023, and~~ both of the following:

40 (1) The probate of a will filed on or after January 1,
41 2023, and the removal to circuit court of the administration
42 of a decedent's estate when the administration commenced on or
43 after January 1, 2023.

44 (2) Any probate proceeding, regardless of when filed,
45 which was pending before a circuit court or appeals court as
46 of April 14, 2022, and which was subject to an order issued by
47 a probate court or circuit court purporting to transfer or
48 remove the case to circuit court or purporting to accept the
49 case into circuit court.

50 (b) Sections 12-11-41, 12-11-41.1, 43-8-190, 43-8-197,
51 43-8-198, 43-8-199, 43-8-200, and 43-8-201, shall not apply to
52 and shall not deprive a circuit court of jurisdiction of
53 probate proceedings pursuant to the enumerated sections, in
54 either of the following:

55 (1) The probate of a will ~~wills~~ filed ~~for probate~~ on or
56 after January 1, 2023, or the removal of the administration of



HB402 INTRODUCED

57 a decedent's estate, when the administration was commenced on
58 or after January 1, 2023.

59 (2) Any probate proceedings, including a will contest
60 or removal of the administration of a decedent's estate,
61 regardless of when filed, which was before a circuit court or
62 an appeals court as of April 14, 2022, and which was subject
63 to an order issued by a probate court or circuit court
64 purporting to transfer or remove the case to circuit court or
65 purporting to accept the case into circuit court.

66 (c) If any provision of this division conflicts with
67 any provision of Chapter 13 of Title 12; Division 3, Article
68 7, Chapter 8 of Title 43; or any other provision of law, the
69 provision of this division prevails."

70 Section 2. This act is curative and remedial and shall
71 apply retroactively to April 15, 2022.

72 Section 3. This act shall become effective immediately
73 following its passage and approval by the Governor, or its
74 otherwise becoming law.