

SENATE BILL 541

By Stevens

AN ACT to amend Tennessee Code Annotated, Title 30  
and Title 32, relative to probate matters.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 30-2-301, is amended by adding the following as a new subsection:

(c)

(1) If the notified beneficiary desires to file an exception to the claim of a claiming creditor, then each beneficiary is responsible for knowing the identity of each claiming creditor, timely filing an exception to the creditor's claim, and prosecuting the exception.

(2) If a beneficiary files an exception with the court, then the excepting beneficiary shall send a copy of the exception to the personal representative of the estate and to the attorney for the personal representative.

SECTION 2. Tennessee Code Annotated, Section 30-2-301(b)(1), is amended by adding the following as a new subdivision:

(C) Each testamentary distributee of the estate, if the decedent's will has been admitted to probate, or each intestate heir of the estate, if the decedent died intestate, of the person or entity's right to except to the claim of a claiming creditor as provided in § 30-2-314(a) and (b) by sending copies of §§ 30-2-301(c) and 30-2-314(a) and (b) with the beneficiary's copy of the will or portion of the will or the letters of administration.

SECTION 3. Tennessee Code Annotated, Section 30-2-306(b), is amended by deleting "(2) Twelve (12) months from the decedent's date of death." and substituting:

(2) Twelve (12) months from the decedent's date of death.

If a creditor files a claim against the estate, then each claiming creditor has the right to file an exception to the claim of any other claiming creditor under TCA § 30-2-314.

SECTION 4. Tennessee Code Annotated, Section 30-2-306, is amended by adding the following as a new subsection:

(f)

(1) If a claiming creditor desires to file an exception to the claim of another claiming creditor, then the claiming creditor is responsible for knowing the identity of each other claiming creditor, timely filing an exception to the other creditor's claim, and prosecuting the exception.

(2) If a claiming creditor files an exception with the court, then the excepting creditor shall send a copy of the exception to the personal representative of the estate and to the attorney for the personal representative.

SECTION 5. Tennessee Code Annotated, Section 30-2-314, is amended by deleting subdivisions (a)(1) and (a)(2) and substituting:

(1) Until thirty (30) days after the expiration of four (4) months from the date of the first publication or posting, as the case may be, of the notice to creditors given as provided in § 30-2-306(b), the personal representative, each other creditor who has filed a claim against the estate, each testamentary distributee of the estate if the decedent's will has been admitted to probate, or each intestate heir of the estate if the decedent died intestate may except to a claim by filing a written exception in triplicate with the clerk of the court in which the estate is being administered.

(2) However, if the filing of the claim as permitted by § 30-2-307(a) occurs after the date that is four (4) months from the date of first publication or posting, as the case may be, of the notice to creditors, then the personal representative, each other creditor

who has filed a claim against the estate, each testamentary distributee of the estate if the decedent's will has been admitted to probate, or each intestate heir of the estate if the decedent died intestate may except to the claim by filing a written exception in triplicate with the clerk of the court in which the estate is being administered; provided, that the exception is filed no later than thirty (30) days from the date the personal representative receives notice from the clerk of the filing of the claim.

SECTION 6. Tennessee Code Annotated, Section 32-2-104(a), is amended by deleting the first sentence.

SECTION 7. Tennessee Code Annotated, Section 32-2-104, is amended by adding the following as new subsections (a)–(e) and redesignating the current subsections (a) and (b) as new subsections (f) and (g):

(a) As used in this chapter:

(1) "Holographic will" means a testamentary document that is either entirely written by the testator in the testator's own handwriting or a printed will form with blanks that are completed entirely in the testator's own handwriting;

(2) "Nuncupative will" means a will that is verbally given by the testator and meets the requirements of § 32-1-106; and

(3) "Written will other than a holographic will" means a will reduced to writing in other than the testator's own handwriting; a printed will form with blanks that are completed by someone other than the testator; or a testamentary document that is typewritten by the testator or someone other than the testator. The document must be signed by the testator and the testator's signature must be attested by two (2) witnesses in accordance with § 32-1-104.

(b) The following is required to admit a nuncupative will of a decedent to probate in common form:

(1) A sworn petition containing the information required by § 30-1-117;

(2) Production of the nuncupative will reduced to writing as required by § 32-1-106; and

(3) Affidavits of the two (2) witnesses to the declaration of the nuncupative will attesting that the terms of the nuncupative will were accurately reduced to writing by one (1) of the witnesses as required by § 32-1-106.

(c) The following is required to admit a holographic will to probate in common form:

(1) A sworn petition containing the information required by § 30-1-117;

(2) Production of the document purporting to be the testator's holographic testamentary document; and

(3) The in-person testimony of two (2) persons establishing that they are familiar with the testator's handwriting. The testimony of the two (2) persons must be supported by sworn affidavits of the testifying witnesses setting forth their knowledge of the testator's handwriting.

(d) The following is required to admit a written will other than a holograph will to probate in common form:

(1) A sworn petition containing the information required by § 30-1-117;

(2) Production of the document or documents purporting to be the testator's testamentary document; and

(3) Either:

(A) The in-person testimony of two (2) persons who saw the testator sign the testamentary document or documents; or

(B) Sworn affidavits of the two (2) witnesses attesting to the testator's signature, to the facts of the signing of the document, and that

the testator was eighteen (18) years of age or older and of sound mind and disposing memory at the time the document was signed.

(e) The following is required to probate a nuncupative will or written will other than a holographic will in solemn form, which may be the initial presentation of the document for admission to probate or may follow a common form admission to probate:

(1) A sworn petition containing the information required by § 30-1-117;

(2) Notice issued by the clerk of the probate court to all heirs at law and beneficiaries under any prior written will of the testator of the date that must be no less than forty (40) calendar days from the date the sworn petition for probate in solemn form is filed and time of the hearing before the appropriate court;

(3) Production of the document purporting to be the testator's testamentary document; and

(4) The in-person testimony of each attesting witness, notary, or other person present when the testator signed the alleged testamentary document to the extent that such persons are available, locatable, and within the jurisdiction of the court.

SECTION 8. This act takes effect upon becoming a law, the public welfare requiring it.