

Section 1. Within thirty days after his appointment, each executor or administrator shall file a verified list of the names, ages, relationship, and places of residence of the heirs of the deceased, and the name, age and residence of the surviving spouse, if any, together with an accurate description of all the real estate of which the deceased died seized.

Sec. 2. Each executor or administrator shall, in his final report, set forth:

1. An accurate description of all the real estate of which the decedent died seized, stating its nature and extent.
2. Whether the deceased died testate or intestate.
3. The name, age, and place of residence of the surviving spouse, or that none survived the deceased.
4. The name, age, and place of residence of each of the heirs and their relationship to the deceased.
5. The name, age, and place of residence of each legatee or devisee, and whether any legacy or devise remains a charge on the real estate, and if so, the nature and amount thereof.
6. The name of the guardian or trustee for any heir, legatee or devisee and the court from which his letters were issued.

That section seven thousand nine hundred one-a four (7901-a4) of the supplement of the compiled Code of Iowa is amended, revised and codified to read as follows:

Sec. 3. In case such surviving spouse does not make such election within six months from the date of the completed service of such notice, or if such surviving spouse shall be the executor of the will and fails, within six months after the will is admitted to probate, to file with the clerk of the court an election to refuse to take under the provisions of the will of the deceased, it shall be conclusively presumed that such survivor consents to the provisions of the will and elects to take thereunder; unless within such period of six months an affidavit should be filed setting forth that such surviving spouse is mentally incapable of making such election.

Approved April 26, 1924.

#### CHAPTER 153

#### WILLS AND LETTERS OF ADMINISTRATION

#### S. F. 237

AN ACT to amend, revise, and codify sections seven thousand seven hundred ninety-one (7791), seventy-eight hundred nineteen (7819), seven thousand eight hundred twenty-nine (7829), and seven thousand eight hundred thirty (7830) of the compiled code of Iowa, and sections seven thousand eight hundred thirty-two-a one (7832-a1) to seven thousand eight hundred thirty-two-a four (7832-a4), inclusive, of the supplement to said code, relating to wills and letters of administration.

Be It Enacted by the General Assembly of the State of Iowa:

That section seven thousand seven hundred ninety-one (7791) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Section 1. Disposal of property by will. Any person of full age and sound mind may dispose by will of all his property, subject to the rights of homestead and exemption created by law, and the distributive share in his estate given by law to the surviving spouse, except sufficient to pay his debts and expenses of

administration; but where the survivor is named as devisee therein, it shall be presumed, unless the intention is clear and explicit to the contrary, that such devise is in lieu of such distributive share, homestead, and exemptions.

**Sec. 2. Limitation.** No devise or bequest to a corporation organized under the chapter relating to corporations not for profit or to a foreign corporation of a similar character, or to a trustee for the use or benefit of any such corporation shall be valid in excess of one-fourth (1/4) of the testator's estate after the payment of debts, if a spouse, child, child of deceased child, or parent survive the testator.

That section seven thousand eight hundred twenty-nine (7829) and seven thousand eight hundred thirty (7830) of the compiled Code of Iowa are amended, revised, and codified to read as follows:

**Sec. 3. Estate of absentee - petition.** Administration may be had on the estate of an absentee. A petition therefor must be filed in the office of the clerk of the district court and must allege:

1. That the absentee was a resident of this state and has, without known cause, absented himself from his usual place of residence, and concealed his whereabouts from his family, for a period of seven (7) years.

2. That said absentee has property in this state (describing it with reasonable certainty), all or part of which is situated in the county in which the petition is filed.

3. The names of the persons, so far as known to the petitioner, who would be entitled to share in the estate of the absentee if he were dead.

4. Facts showing that the petitioner is a party who would be entitled to administer on the estate of said absentee in case the absentee were known to be dead.

**Sec. 3-a1. Notice.** Upon the filing of such petition, the court, or a judge thereof in vacation, shall prescribe the notice and the return day therein, which shall be addressed to and served upon said absentee and the said beneficiaries of his estate.

**Sec. 3-a2. Service.** Said notice shall in all cases be served:

1. By publication in the county in which the petition is filed, once each week for eight (8) consecutive weeks, in a newspaper designated by the court or judge, and

2. Personally upon all the known or alleged beneficiaries of the estate of said absentee, residing within the state, in the manner, and for the length of time required for the service of original notices.

**Sec. 3-a3. Proof of service - filing.** Proof of the publication and personal service of said notice shall be filed with the clerk aforesaid on or before the day set for hearing.

**Sec. 3-a4. Hearing - orders.** If, on the day set for hearing, the absentee fails to appear, the court shall appoint some disinterested person to appear for the absentee and all beneficiaries not appearing, and said cause shall thereupon stand continued until the next term of said court, and the court shall have authority to make further continuance upon proper showing. Said person shall investigate the matters and things alleged in the petition. The court shall hear the proofs and, if satisfied of the truth of the allegations of the petition, shall order the issuance of letters of administration upon the estate of said absentee as though said absentee were known to be dead.

**Sec. 3-a5. Administration.** The person to whom the administration is granted shall proceed to administer and dispose of the estate in the same manner that administrators are required to dispose of and administer the estates of decedents.

**Sec. 3-a6. Sale of real estate.** Such administrator may, under the orders of the court, sell and dispose of all real estate and other property owned by such absentee, and after the payment of legal costs, expenses, and claims, make distribution of the proceeds thereof to the persons entitled thereto.

**Sec. 3-a7. Procedure in sale of real estate.** The provisions of law regarding application, notice, and manner of sale of real estate for the payment of debts by administrators shall be followed so far as applicable.

**Sec. 3-a8. Decree as to heirs.** Prior to any order of distribution, the court shall hear proof and determine the legal heirs and beneficiaries of said absentee, and their respective interests in such estate.

**Sec. 3-a9. Additional notice.** Before determining said heirs and beneficiaries the court may prescribe further and additional notices and the service thereof.

That sections seven thousand eight hundred thirty-two-a one (7832-a1) to seven thousand eight hundred thirty-two-a four (7832-a4), inclusive, of the supplement to the compiled Code of Iowa are amended, revised, and codified to read as follows:

**Sec. 5. Satisfaction and assignment of judgments and mortgages by foreign fiduciary officer.** Judgments rendered by any court in the state of Iowa, and mortgages, or deeds of trust executed as mortgages, on property in this state, and belonging to an estate, trust or to a person under guardianship may, in whole or in part as to any particular property, be released and discharged or be assigned by an executor, administrator, guardian, trustee, receiver, referee, assignee or commissioner, or any one acting in a fiduciary capacity appointed by a court of record of any foreign state or country, when no resident executor, administrator, guardian, receiver, referee, assignee, commissioner, or person acting in a fiduciary capacity has been appointed or qualified in this state. Such release, satisfaction, discharge or assignment may be made in any manner or by any instrument which would be valid and effective if made by a like officer qualified under the law of this state.

**Sec. 6. Certificate of appointment and authority.** Before a release, satisfaction, discharge, or assignment by such foreign officer shall be effective, a certificate executed by the judge or clerk of the court making the appointment, with seal attached, if such officer has a seal, shall be recorded. Said certificate shall show the name of the court making the appointment, the date of the same, and that such foreign officer has not been discharged at the time of the execution of the release, satisfaction, discharge, or assignment and is authorized to execute the same.

**Sec. 7. Filing of certificate.** The certificate aforesaid shall be filed for records:

1. In case of judgments, in the office of the clerk of the court in which the judgment is of record or in which it has been filed, or
2. In case of mortgages, or deeds of trust, in the office of the county recorder of the county in which the mortgage or deed of trust is of record.

Sec. 8. Record - index of satisfaction. Such certificates shall be recorded by the proper officer in the judgment records of the court in which the same appears of record, or in the appropriate chattel or real estate records, as the case may be, and the record of such release, satisfaction, discharge, or assignment shall be properly indexed.

That section seventy-eight hundred nineteen (7819) of the compiled Code of Iowa be amended, revised, and codified to read as follows:

Sec. 9. Administration granted. In other cases, where an executor is not appointed by will, administration shall be granted to any suitable person or persons on the request and application of:

1. The surviving spouse.
2. The next of kin.
3. Creditors.
4. Any other person showing good grounds therefor.

Approved February 21, 1924.

#### CHAPTER 154

#### DISTRIBUTION OF INTESTATE PROPERTY

S. F. 239

AN ACT to amend, revise, and codify sections seven thousand nine hundred four (7904) and seven thousand nine hundred ten (7910) of the compiled code of Iowa, relating to the distribution of intestate property.

Be It Enacted by the General Assembly of the State of Iowa:

That sections seven thousand nine hundred four (7904) and seven thousand nine hundred ten (7910) of the compiled Code of Iowa are amended, revised and codified to read as follows:

Section 1. If the intestate leaves no issue, the whole of the estate to the amount of seventy-five hundred dollars, after the payment of the debts and expenses of administration, and one-half of all of the estate in excess of said seventy-five hundred dollars shall go to the surviving spouse and the other one-half of said excess shall go to the parents. If no spouse, the whole shall go to the parents. In case of an adopted child, the parents by adoption shall inherit as if they were the natural parents.

Approved December 20, 1923.

#### CHAPTER 155

#### FORECLOSURE OF MORTGAGES

S. F. 241

AN ACT to amend, revise, and codify sections eight thousand one hundred sixty (8160), eight thousand one hundred sixty-one (8161), eight thousand one hundred sixty-six (8166), and eight thousand one hundred seventy-eight (8178) of the compiled code of Iowa, relating to foreclosure and release of mortgages, and sales under pledge.