

18 government, any of its subdivisions or agencies, providing copy of such contract
19 is filed with the commission.

20 It shall be the duty of every warehouseman at the time of making application
21 for a license, to file a tariff with the commission and to publish the same, which
22 shall contain rates to be charged for storage, conditioning of stored products, and
23 ~~delivery receiving or loadout~~ charges, such publication of tariff to be made by the
24 applicant by posting the same in a conspicuous place at the place of business of
25 the applicant. Such tariff shall be in a form as prescribed by the commission and
26 shall become effective at the time the license becomes effective.

1 SEC. 10. Section five hundred forty-three point thirty-three (543.33),
2 subsection five (5), Code 1975, is amended to read as follows:

3 5. For the cost of maintaining an ~~inspector~~ *employee* at a licensed warehouse to
4 supervise the correction of a deficiency, ~~thirty~~ *thirty five* dollars per day.

1 SEC. 11. Section five hundred forty-three point thirty-six (543.36), Code 1975,
2 is amended to read as follows:

3 **543.36 Penalties—misdemeanor.** Every person who violates or fails to
4 comply with any of the provisions of this chapter or to comply with any lawfully
5 authorized order, direction, demand, or rule or regulation of the commission shall
6 be guilty of a misdemeanor and upon conviction shall be punished by a fine not
7 exceeding one hundred dollars or by imprisonment in the county jail for a period
8 of not to exceed thirty days ~~or by both such fine and imprisonment.~~

Approved June 23, 1976

CHAPTER 1227

PROBATE

H. F. 1497

AN ACT making amendments to the probate laws by updating provisions relating to the appointment of a personal representative, providing for a change in the method of serving notice to file objections in a probate proceeding, providing for a change in the disposition of proceeds from a wrongful death action which are property of the estate, providing for self-proved wills, and providing for a disclaimer of inheritance when an administration is not pending.

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

1 SECTION 1. Section five hundred ninety point one (590.1), unnumbered
2 paragraph two (2), Code 1975, is amended to read as follows:

3 ~~In all instances prior to January 1, 1967~~ *In all instances where more than five*
4 *years have passed since the appointment of a personal representative or probate of a*
5 *will without administration*, where administrators have failed to publish notice of
6 their appointment as required by section 633.230, and executors have failed to
7 publish a notice of admission of the will to probate and their appointment as
8 required by section 633.304 *and six hundred thirty-three point three hundred five*
9 *(633.305) of the Code*, but have published a notice of appointment or notice of
10 admission of the will to probate and of the appointment of the executor, such
11 notice of appointment or notice of admission of the will to probate and of the
12 appointment of the executor, is hereby legalized and shall have the same force
13 and effect as though the same had been published as required.

1 SEC. 2. Section six hundred thirty-three point forty (633.40), subsection four
2 (4), Code 1975, is amended to read as follows:

3 4. Notice otherwise provided. In lieu of the foregoing the notice may direct
 4 each interested party to file his objections thereto in writing, if any, on or before a
 5 date certain, to be set out in the notice and to be not less than twenty days after
 6 the day the notice is served upon him and that unless he does so file his
 7 objections in writing that he will be forever barred from making any objections
 8 thereto. Said notice ~~may shall~~ be served upon each interested party ~~either by~~
 9 ~~ordinary United States mail or~~ personally in compliance with the rules of civil
 10 procedure, ~~or upon those parties not under legal disability by ordinary United States~~
 11 ~~mail.~~ In the event objections thereto are timely filed, the court shall fix the time
 12 and place of the hearing for the judicial determination of the issues raised.

1 SEC. 3. Chapter six hundred thirty-three (633), division six (VI), part two (2),
 2 Code 1975, is amended by adding the following new section:

3 NEW SECTION. **Self-proved will.** An attested will may, at the time of its
 4 execution, or at any subsequent date, be made self-proved, by the
 5 acknowledgement thereof by the testator and the affidavits of the witnesses, each
 6 made before a person authorized to administer oaths and take acknowledgements
 7 under the laws of this state, and evidenced by such person's certificate, under
 8 seal, attached or annexed to the will, in form and content substantially as follows:
 9 State of _____

10 SS

11 County of _____

12 Before me, the undersigned, on this day personally appeared
 13 _____ and _____ known to
 14 me to be the testator and the witnesses, respectively, whose names are signed to
 15 the attached or foregoing instrument and, all of these persons being by me first
 16 duly sworn, _____, the testator, declared to me and to the
 17 witnesses, in my presence, that said instrument is the testator's will and that the
 18 testator willingly signed and executed such instrument, or expressly directed
 19 another to sign the same for the testator, in the presence of said witnesses, as the
 20 testator's free and voluntary act for the purposes therein expressed; that said
 21 witnesses, and each of them, declared that such will was executed and
 22 acknowledged by the testator as the testator's will in their presence and that they,
 23 in the testator's presence, at the testator's request, and in the presence of each
 24 other, did subscribe their names thereto as attesting witnesses on the day of the
 25 date of such will; and that the testator, at the time of the execution of such
 26 instrument, was of full age and of sound mind and that the witnesses were sixteen
 27 years of age or older and otherwise competent to be witnesses.

28 _____
 29 Testator

30 _____
 31 Witness

32 _____
 33 Witness

34 Subscribed, sworn and acknowledged before me by _____, the testator;
 35 and subscribed and sworn before me by _____ and _____,
 36 witnesses, this ____ day of _____, 19____.

37 (seal) _____
 38 Notary Public, or other officer
 39 authorized to take and certify
 40 acknowledgements and administer
 41 oaths

42 A self-proved will shall constitute proof of due execution of such instrument
 43 as required by section six hundred thirty-three point two hundred ninety-
 44 three (633.293) of the Code and may be admitted to probate without
 45 testimony of witnesses.

1 SEC. 4. Section six hundred thirty-three point three hundred thirty-six
2 (633.336), Code 1975, is amended to read as follows:

3 **633.336 Damages for wrongful death.** When a wrongful act produces death,
4 damages recovered therefor shall be disposed of as personal property belonging to
5 the estate of the deceased, ~~but if the deceased leaves a spouse, child, or parent, it~~
6 ~~shall not be liable for the payment of debts of the estate, except debts and~~
7 ~~charges of the first, second, third and fifth classes however, if the damages include~~
8 ~~damages for loss of services and support of a deceased spouse and parent, such~~
9 ~~damages shall be apportioned by the court among the surviving spouse and children of~~
10 ~~the decedent in such manner as the court may deem equitable consistent with the loss~~
11 ~~of services and support sustained by the surviving spouse and children respectively. If~~
12 ~~the decedent leaves a spouse, child or parent, damages for wrongful death shall not be~~
13 ~~subject to debts and charges of the decedent's estate.~~

1 SEC. 5. Section six hundred thirty-three point seven hundred four (633.704),
2 Code 1975, is amended by striking the section and inserting in lieu thereof the
3 following:

4 **633.704 Right to disclaim succession.**

5 1. Right of distributee. No person, including a person designated to take
6 pursuant to a power of appointment, shall be required to take as a distributee, or
7 otherwise, under the laws of Iowa, and any person may disclaim in whole or in
8 part, the succession to any property, real or personal, or interest therein by filing
9 a written instrument within the time and at the place hereinafter provided. The
10 instrument shall:

- 11 a. Describe the property or part thereof or interest therein disclaimed.
12 b. Declare the disclaimer and the extent thereof and
13 c. Be signed and acknowledged by the disclaimant.

14 2. Time and place of filing.

15 a. Time of filing. The disclaimer instrument shall be filed within six months
16 after the date of the second publication of the notice to creditors, or within six
17 months after the death of the donee of the power, as the case may be, or if the
18 taker of the property or interest is not then finally ascertained or his interest has
19 not become indefeasibly fixed both in quality and in quantity, then not later than
20 two months after the event when the taker has become finally ascertained and his
21 interest has become indefeasibly fixed both in quality and in quantity.

22 b. Place of filing. The instrument shall be filed with the clerk in the county
23 where the administration proceedings are pending. If no such administration
24 proceedings are pending, the instrument shall be filed with the clerk in the county
25 where the proceedings would be located by law. A copy of the instrument shall
26 also be mailed to the personal representative of the decedent, if any. A copy of a
27 disclaimer affecting real estate shall be recorded in the office of the recorder of
28 the county where the real estate is located. The instrument shall be irrevocable
29 upon filing.

30 3. Effective disclaimer. Unless the decedent or donee of the power has
31 otherwise provided, the property or part thereof or interest therein disclaimed,
32 and any further interest which is to take effect in possession or enjoyment at or
33 after the termination of the interest disclaimer, shall descend or be distributed as
34 if the disclaimant has predeceased the decedent, or if the disclaimant is one
35 designated to take pursuant to a power of appointment, exercised by testamentary
36 instrument, then as if the disclaimant has predeceased the donee of the power. In
37 every case, the disclaimer shall be related back for all purposes to the date of the
38 death of the decedent or the donee, as the case may be. In the case of a devisee,
39 the interest disclaimed shall descend pursuant to section six hundred thirty-three
40 point two hundred seventy-three (633.273) of the Code. A person who has a
41 present and a future interest in property and disclaims his present interest in
42 whole or in part, shall be deemed to have disclaimed his future interest to the
43 same extent. In the event of death of the disclaimant within the time allowed for

44 the filing of a disclaimer, the right to disclaim shall terminate. In the event of
 45 disability of a person entitled to disclaim, the court may authorize or direct a
 46 conservator or guardian to exercise the right to disclaim on behalf of the person
 47 under disability when it is in his interest that it be done.

48 4. Waiver and bar. Any assignment, conveyance, encumbrance, pledge or
 49 transfer of property or any interest therein or any contract therefor, or any
 50 written waiver of the right to disclaim or any acceptance or property or interest
 51 therein by an heir, next of kin, devisee, legatee, donee, person succeeding to a
 52 disclaimed interest, beneficiary or person designated to take pursuant to a power
 53 of appointment exercised by testamentary instrument, and any sale of property by
 54 execution, made before the expiration of the period in which a person may
 55 disclaim as provided in this section, bars the right to disclaim the property. The
 56 right to disclaim granted by this section shall exist irrespective of any limitation
 57 on the interest of the disclaimant in the nature of a spendthrift provision or
 58 similar restriction. A disclaimer, when filed and recorded as provided in this
 59 section or a written waiver of the right to disclaim, shall be binding upon the
 60 disclaimant or person waiving and all parties claiming by, through or under him.
 61 The right to disclaim shall follow the proceeds of a disposition of property by a
 62 fiduciary, and shall not affect the disposition.

63 5. Exclusiveness of remedy. This section shall not abridge the right of any
 64 person to assign, convey, release or renounce any property or interest therein
 65 arising under any other statute.

Approved June 23, 1976

CHAPTER 1228

DISSOLUTION OF MARRIAGE

H. F. 352

AN ACT relating to dissolution of marriage.

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

1 SECTION 1. Section five hundred ninety-eight point three (598.3), Code 1975, is
 2 amended to read as follows:

3 **598.3 Kind of action—joinder.** An action for dissolution of marriage shall be
 4 by equitable proceedings, and no cause of action, save for alimony, shall be
 5 joined therewith. *Such actions shall not be subject to counterclaim or cross petition*
 6 *by the respondent. After the appearance of the respondent, no dismissal of the cause of*
 7 *action shall be allowed unless both the petitioner and the respondent sign the*
 8 *dismissal.*

1 SEC. 2. Section five hundred ninety-eight point five (598.5), Code 1975, is
 2 amended by adding the following new subsection:

3 NEW SUBSECTION. State whether the appointment of a conciliator pursuant to
 4 section five hundred ninety-eight point sixteen (598.16) of the Code may preserve
 5 the marriage.

1 SEC. 3. Section five hundred ninety-eight point eleven (598.11), unnumbered
 2 paragraph one (1), Code 1975, is amended to read as follows:

3 The court may order either party to pay the clerk a sum of money for the
 4 separate support and maintenance of the other party and the children and to
 5 enable such party to prosecute or defend the action. *The court may on its own*