

shall bear six percent interest from the expiration of twelve months from the date of the decedent's death.

Sec. 2. This Act is effective January 1, 1978.

Approved May 5, 1978

CHAPTER 1154

PROBATE

S. F. 2104

AN ACT relating to the Iowa probate code.

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

Section 1. Section four hundred fifty point seven (450.7), subsection three (3), Code 1977, is amended to read as follows:

3. The sale, exchange, mortgage, or pledge of property by the personal representative pursuant to a testamentary direction or power, pursuant to section six hundred thirty-three point three hundred eighty-seven (633.387) of the Code, or under order of court, divests the property from the lien of the tax. The proceeds from such a sale, exchange, mortgage, or pledge shall be held by the personal representative subject to the same priorities for the payment of the tax as existed with respect to the property before the transaction, and the personal representative is personally liable for payment of the tax to the extent of the proceeds. Whenever there is a change in the status, type, or nature of the assets reported in the preliminary inventory, the change shall be reported on or before the filing of the final report when required by the department of revenue.

Sec. 2. Section four hundred fifty point twelve (450.12), subsection one (1), unnumbered paragraph two (2), Code 1977, is amended by striking the paragraph and inserting in lieu thereof the following:

Said debts shall not be deducted unless the personal representative certifies that the same have been paid or allowed in accordance with the provisions of sections six hundred thirty-three point four hundred twenty-eight (633.428), six hundred thirty-three point four hundred thirty-one (633.431), six hundred thirty-three point four hundred thirty-two (633.432), six hundred thirty-three point four hundred thirty-three (633.433), six hundred thirty-three point four hundred thirty-four (633.434), six hundred thirty-three point

four hundred thirty-five (633.435), and six hundred thirty-three point four hundred forty-eight (633.448), within twelve months from the date of death of the decedent, unless otherwise ordered by the court.

Sec. 3. Section six hundred thirty-three point three (633.3), subsection eight (8), is amended to read as follows:

8. COSTS OF ADMINISTRATION--includes court costs, fiduciary's fees, attorney fees, all appraisers' fees, premiums on corporate surety bonds, statutory allowance for support of surviving spouse and children, cost of continuation of abstracts of title, recording fees, transfer fees, transfer taxes, agents' fees allowed by order of court, interest expense, including, but not limited to, interest payable on extension of federal estate tax, and all other fees and expenses allowed by order of court in connection with the administration of the estate. Court costs shall include expenses of selling property.

Sec. 4. Section six hundred thirty-three point six hundred ninety-nine (633.699), subsection six (6), paragraph b is amended to read as follows:

b. Directly for the maintenance, ~~welfare~~, and education of the beneficiary;

Sec. 5. Section six hundred thirty-three point seven hundred four (633.704), subsections three (3) and four (4), Code 1977, are amended to read as follows:

3. EFFECTIVE DISCLAIMER. Unless the decedent or donee of the power has otherwise provided, the property or part thereof or interest therein disclaimed, and any further future interest which is to take effect in possession or enjoyment at or after the termination of the interest disclaimer, shall descend or be distributed as if the disclaimant has predeceased the decedent, or if the disclaimant is one designated to take pursuant to a power of appointment, exercised by testamentary instrument, then as if the disclaimant has predeceased the donee of the power. In every case, the disclaimer shall be related back for all purposes to the date of the death of the decedent or the donee, as the case may be. In the case of a devisee, the interest disclaimed shall descend pursuant to section 633.273. A person who has a present and a future interest in property and disclaims his or her present interest in whole or in part, shall be deemed to have disclaimed his or her future interest to the same extent. In the event of death of the disclaimant within the time allowed for the filing of a disclaimer, the right to disclaim shall terminate.

In the event of disability of a person entitled to disclaim, the court may authorize or direct a conservator or guardian to exercise the right to disclaim on behalf of the person under disability when it is in his or her interest that it be done.

4. WAIVER AND BAR. Any assignment, conveyance, encumbrance, pledge or transfer of property or any interest therein or any contract therefor, or any written waiver of the right to disclaim or any acceptance ~~or~~ of property or interest therein by an heir, next of kin, devisee, legatee, donee, person succeeding to a disclaimed interest, beneficiary or person designated to take pursuant to a power of appointment exercised by testamentary instrument, and any sale of property by execution, made before the expiration of the period in which a person may disclaim as provided in this section, bars the right to disclaim the property. An election by a surviving spouse under sections six hundred thirty-three point two hundred thirty-six (633.236) through six hundred thirty-three point two hundred forty-six (633.246) inclusive shall not be a waiver or bar of the right to disclaim. The right to disclaim granted by this section shall exist irrespective of any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction. A disclaimer, when filed and recorded as provided in this section or a written waiver of the right to disclaim, shall be binding upon the disclaimant or person waiving and all parties claiming by, through or under him or her. The right to disclaim shall follow the proceeds of a disposition of property by a fiduciary, and shall not affect the disposition.

Sec. 6. This Act is effective January 1, 1979.

Approved June 5, 1978