

reprinted 3-1-87

FILED FEB 23 1989

SENATE FILE 275
BY COMMITTEE ON JUDICIARY

Substituted for HF-532
Passed in HOUSE AYES 94, NAYS 0, 4-9-89, (p. 1301)
(SUCCESSOR TO SSB 150)

Passed Senate, Date 3-6-89 (p. 135) Passed House, Date 4/7/89 (p. 1301)
Vote: Ayes 50 Nays 0 Vote: Ayes 94 Nays 0
Approved 4/20/89

A BILL FOR

1 An Act relating to the administration of an estate and changing
2 certain notice provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 275

S-3164

- 1 Amend Senate File 275 as follows:
- 2 1. Page 3, line 5, by striking the word
- 3 "provide".

By RICHARD VARN

S-3164, FILED MARCH 2, 1989

adopted 3-6-89 (p. 634)

SF 275

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1 Section 1. Section 633.35, Code 1989, is amended to read
2 as follows:

3 633.35 REPORTS AND APPLICATIONS FOR ORDERS.

4 All petitions, reports, and applications for orders in
5 probate must be in writing, verified, acknowledged or
6 certified, and self-explanatory, so that the clerk or court
7 from a perusal thereof may understand the relief sought
8 without explanations. If the petition, report, or application
9 is certified, substantially the following language shall be
10 used: "I certify under penalty of perjury and pursuant to the
11 laws of the state of Iowa that the preceding is true and
12 correct."

13 Sec. 2. Section 633.230, Code 1989, is amended to read as
14 follows:

15 633.230 NOTICE IN INTESTATE ESTATES.

16 In intestate matters, the administrator ~~shall~~, as soon as
17 letters are issued, shall cause to be published once each week
18 for two consecutive weeks in a daily or weekly newspaper of
19 general circulation published in the county in which the
20 estate is pending, and at any time during the pendency of
21 administration that the administrator has knowledge of the
22 name and address of a person believed to own or possess a
23 claim which will not or may not be paid or otherwise satisfied
24 during administration, provide by ordinary mail to each such
25 claimant at the claimant's last known address, a notice of
26 appointment which shall be in substantially the following
27 form:

28 NOTICE OF APPOINTMENT OF ADMINISTRATOR AND NOTICE
29 TO CREDITORS

30 In the District Court of Iowa
31 in and for County.
32 In the Estate of
33 deceased
34 Probate No.

35 To All Persons Interested in the Estate of

1
2 deceased, who died on or about, 19...:
3 You are hereby notified that on the day of,
4 19..., the undersigned was appointed administrator of said the
5 estate.

6 Notice is hereby given that all persons indebted to the
7 estate are requested to make immediate payment to the
8 undersigned, and creditors having claims against the estate
9 shall file them with the clerk of the above named district
10 court, as provided by law, duly authenticated, for allowance,
11 and unless so filed within by the later to occur of four
12 months from the second publication of this notice or one month
13 from the date of the mailing of this notice (unless otherwise
14 allowed or paid) a claim is thereafter forever barred.

15 Dated this day of, 19...
16

17 Administrator of said the estate
18

19 Address
20

21 Attorney for said the administrator
22

23 Address

24 Date of second publication
25 day of, 19...
26 (Date to be inserted by publisher)

27 Sec. 3. Section 633.304, Code 1989, is amended to read as
28 follows:

29 633.304 NOTICE OF PROBATE OF WILL WITH ADMINISTRATION.
30 On admission of a will to probate, the executor ~~shall~~, as
31 soon as letters are issued, shall cause to be published once
32 each week for two consecutive weeks in a daily or weekly
33 newspaper of general circulation published in the county in
34 which the estate is pending, and at any time during the
35 pendency of administration that the executor has knowledge of

1 the name and address of a person believed to own or possess a
 2 claim which will not or may not be paid or otherwise satisfied
 3 during administration, provide by ordinary mail to each such
 4 claimant at the claimant's last known address, and as soon as
 3645 practicable give notice, except to any executor, provide by
 6 ordinary mail to the surviving spouse, each heir of the
 7 decedent and each devisee under the will admitted to probate
 8 whose identities are reasonably ascertainable, at such
 9 persons' last known addresses, a notice of admission of the
 10 will to probate and of the appointment of the executor, in
 11 which shall be included a notice that any action to set aside
 12 the probate of the will must be brought within the later to
 13 occur of four months from the date of the second publication
 14 of the notice or one month from the date of mailing of this
 15 notice or thereafter be forever barred, and in which shall be
 16 included a notice to debtors to make payment, and to creditors
 17 having claims against the estate to file them with the clerk
 18 within four months from the second publication of the notice,
 19 or thereafter be forever barred.

20 The notice shall be substantially in the following form:

21 Notice of Probate of Will, of Appointment of Executor,
 22 and Notice to Creditors

23 In the District Court of Iowa
 24 in and for County. Probate No.
 25 In the Estate of, Deceased
 26 To All Persons Interested in the Estate of,
 27 Deceased, who died on or about, 19...:
 28 You are hereby notified that on the day of,
 29 19..., the last will and testament of, deceased,
 30 bearing date of the ... day of, 19..., was admitted to
 31 probate in the above named court and that was
 32 appointed executor of the estate. Any action to set aside the
 33 will must be brought in the district court of said county
 34 within the later to occur of four months from the date of the
 35 second publication of this notice or one month from the date

1 of mailing of this notice to all heirs of the decedent and
2 devisees under the will whose identities are reasonably
3 ascertainable, or thereafter be forever barred.

4 Notice is further given that all persons indebted to the
5 estate are requested to make immediate payment to the
6 undersigned, and creditors having claims against the estate
7 shall file them with the clerk of the above named district
8 court, as provided by law, duly authenticated, for allowance,
9 and unless so filed within by the later to occur of four
10 months from the second publication of this notice or one month
11 from the date of mailing of this notice (unless otherwise
12 allowed or paid) a claim is thereafter forever barred.

13 Dated this day of, 19...

14

15 Executor of estate

16

17 Address

18

19 Attorney for executor

20

21 Address

22 Date of second publication

23 day of, 19...

24 (Date to be inserted by publisher)

25 Sec. 4. Section 633.305, Code 1989, is amended to read as
26 follows:

27 633.305 NOTICE IF NO ADMINISTRATION.

28 On admission of a will to probate without administration of
29 the estate, and upon advanced payment of the costs by the
30 proponent, the clerk shall cause to be published, in the
31 manner prescribed in the preceding section, a notice of the
32 admission of the will to probate. in-which As soon as
33 practicable following the admission of the will to probate,
34 the proponent shall give notice of the admission of the will
35 to probate by ordinary mail addressed to the surviving spouse,

1 each heir of the decedent, and each devisee under the will
2 admitted to probate whose identities are reasonably
3 ascertainable, at such persons' last known addresses. The
4 notice of the admission of the will to probate shall be
5 included include a notice that any action to set aside the
6 will must be brought within the later to occur of four months
7 from the date of the second publication of the notice or one
8 month from the date of mailing of this notice, or thereafter
9 be barred.

10 The notice shall be substantially in the following form:

11 Notice of Proof of Will
12 Without Administration

13 In the District Court of Iowa
14 in and for County. Probate No.
15 In the Estate of, Deceased
16 To All Persons Interested in the Estate of,
17 Deceased, who died on or about, 19....:

18 You are hereby notified that on the day of
19, 19..., the last will and testament of
20, deceased, bearing date of the day of
21, 19..., was admitted to probate in the above
22 named court and there will be no present administration of the
23 estate. Any action to set aside the will must be brought in
24 the district court of said the county within the later to
25 occur of four months from the date of the second publication
26 of this notice or one month from the date of mailing of this
27 notice to all heirs of the decedent and devisees under the
28 will whose identities are reasonably ascertainable, or
29 thereafter be forever barred.

30 Dated this day of, 19..
31

32 Clerk of the district court

33

34 Attorney for estate

35

1 Address

2 Date of second publication

3 day of, 19..

4 (Date to be inserted by publisher)

5 Sec. 5. Section 633.309, Code 1989, is amended to read as
6 follows:

7 633.309 TIME WITHIN WHICH ACTION MUST BE COMMENCED.

8 An action to contest or set aside the probate of a will
9 must be commenced in the court in which the will was admitted
10 to probate within the later to occur of four months from the
11 date of second publication of notice of admission of the will
12 to probate or one month following the mailing of the notice to
13 all heirs of the decedent and devisees under the will whose
14 identities are reasonably ascertainable, at such persons' last
15 known addresses.

16 Sec. 6. Section 633.410, Code 1989, is amended to read as
17 follows:

18 633.410 LIMITATION ON FILING CLAIMS AGAINST DECEDENT'S
19 ESTATE.

20 All claims against a decedent's estate, other than charges,
21 whether due or to become due, absolute or contingent,
22 liquidated or unliquidated, founded on contract or otherwise,
23 are forever barred against the estate, the personal
24 representative, and the distributees of the estate, unless
25 filed with the clerk within the later to occur of four months
26 after the date of the second publication of the notice to
27 creditors or, as to each claimant whose identity is reasonably
28 ascertainable, one month after service of notice by ordinary
29 mail to the claimant's last known address. However, notice is
30 not required to be given by mail to any creditor whose claim
31 will be paid or otherwise satisfied during administration and
32 the personal representative may waive this the limitation on
33 filing provided under this section. This section does not bar
34 claims for which there is insurance coverage, to the extent of
35 the coverage, or claimants entitled to equitable relief due to

1 peculiar circumstances.

2 Sec. 7. Section 633.434, Code 1989, is amended to read as
3 follows:

4 633.434 PAYMENT OF DEBTS AND CHARGES AFTER EXPIRATION OF
5 FOUR MONTHS' PERIOD.

6 The personal representative shall, as soon as practicable
7 following appointment, make reasonably diligent efforts to
8 ascertain the names and addresses of all persons believed to
9 own or possess claims against a decedent's estate.

10 Upon the expiration of the later to occur of four months
11 after the date of the second publication of notice to
12 creditors or one month after the service of the notice by
13 ordinary mail upon all claimants whose identities are
14 reasonably ascertainable, at their last known addresses and
15 whose claims will not or may not be paid or otherwise
16 satisfied during administration, the personal representative
17 shall pay the debts and charges against the estate in
18 accordance with this code. If it appears at any time that the
19 estate is or may be insolvent, that there are insufficient
20 funds on hand, or that there is other good and sufficient
21 cause, the personal representative may report that fact to the
22 court and apply for any order that the personal representative
23 deems necessary.

24 Sec. 8. Section 633.477, Code 1989, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 12. A statement as to whether all
27 statutory requirements pertaining to claims have been complied
28 with and a statement as to whether all claims, including
29 charges, have been paid and whether a lien continues to exist
30 on any property as security for any claim.

31 EXPLANATION

32 This bill provides for certain changes relating to notice
33 provisions in the administration of estates. If a petition,
34 report, or application for an order in probate is certified, a
35 written certification is to be included that the petition,

1 report, or application is correct. The administrator is
2 required to notify by ordinary mail at any time during the
3 pendency of administration of an estate, any person the
4 administrator believes owns or possesses a claim which will
5 not or may not be paid or otherwise satisfied during
6 administration.

7 Any action to set aside the probate of the will, under the
8 provisions related to administration of a will with or without
9 administration, must be filed within the later to occur of
10 four months (current law) and one month from the date of
11 mailing of the notice to heirs of the decedent and devisees
12 under the will as required under the affected sections.
13 Claims against the decedent's estate must be made within that
14 same time frame.

15 Payment of debts and charges is to be made upon the
16 expiration of the later of four months or one month after the
17 service of the notice by ordinary mail upon all claimants
18 whose identities are reasonably ascertainable at their last
19 known addresses and whose claims will not or may not be paid
20 or otherwise satisfied during administration.

21 The bill also provides that the personal representative is
22 to file a statement as to whether all statutory requirements
23 pertaining to claims have been complied with in the personal
24 representative's final report.

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House Jud. Bill

SENATE FILE 275
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 150)
(AS AMENDED AND PASSED BY THE SENATE MARCH 6, 1989)

* - Language Stricken by the Senate

Substituted for H.F. 530

Passed Senate, Date 3/6/89 (p 635) Passed House, Date 4/7/89 (p 1301)

Vote: Ayes 50 Nays 0 Vote: Ayes 94 Nays 0

Approved H-OC-89 (p 1584)

A BILL FOR

1 An Act relating to the administration of an estate and changing
2 certain notice provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 275

1 Section 1. Section 633.35, Code 1989, is amended to read
2 as follows:

3 633.35 REPORTS AND APPLICATIONS FOR ORDERS.

4 All petitions, reports, and applications for orders in
5 probate must be in writing, verified, acknowledged or
6 certified, and self-explanatory, ~~so that the clerk or court~~
7 ~~from a perusal thereof may understand the relief sought~~
8 ~~without explanations.~~ If the petition, report, or application
9 is certified, substantially the following language shall be
10 used: "I certify under penalty of perjury and pursuant to the
11 laws of the state of Iowa that the preceding is true and
12 correct."

13 Sec. 2. Section 633.230, Code 1989, is amended to read as
14 follows:

15 633.230 NOTICE IN INTESTATE ESTATES.

16 In intestate matters, the administrator shall, as soon as
17 letters are issued, shall cause to be published once each week
18 for two consecutive weeks in a daily or weekly newspaper of
19 general circulation published in the county in which the
20 estate is pending, and at any time during the pendency of
21 administration that the administrator has knowledge of the
22 name and address of a person believed to own or possess a
23 claim which will not or may not be paid or otherwise satisfied
24 during administration, provide by ordinary mail to each such
25 claimant at the claimant's last known address, a notice of
26 appointment which shall be in substantially the following
27 form:

28 NOTICE OF APPOINTMENT OF ADMINISTRATOR AND NOTICE
29 TO CREDITORS

30 In the District Court of Iowa
31 in and for County.
32 In the Estate of
33 deceased
34 Probate No.

35 To All Persons Interested in the Estate of

1

2 deceased, who died on or about, 19...:

3 You are hereby notified that on the day of,
4 19..., the undersigned was appointed administrator of said the
5 estate.

6 Notice is hereby given that all persons indebted to the
7 estate are requested to make immediate payment to the
8 undersigned, and creditors having claims against the estate
9 shall file them with the clerk of the above named district
10 court, as provided by law, duly authenticated, for allowance,
11 and unless so filed within by the later to occur of four
12 months from the second publication of this notice or one month
13 from the date of the mailing of this notice (unless otherwise
14 allowed or paid) a claim is thereafter forever barred.

15 Dated this day of, 19...

16

17 Administrator of said the estate

18

19 Address

20

21 Attorney for said the administrator

22

23 Address

24 Date of second publication

25 day of, 19...

26 (Date to be inserted by publisher)

27 Sec. 3. Section 633.304, Code 1989, is amended to read as
28 follows:

29 633.304 NOTICE OF PROBATE OF WILL WITH ADMINISTRATION.

30 On admission of a will to probate, the executor ~~shall~~, as
31 soon as letters are issued, shall cause to be published once
32 each week for two consecutive weeks in a daily or weekly
33 newspaper of general circulation published in the county in
34 which the estate is pending, and at any time during the
35 pendency of administration that the executor has knowledge of

1 the name and address of a person believed to own or possess a
2 claim which will not or may not be paid or otherwise satisfied
3 during administration, provide by ordinary mail to each such
4 claimant at the claimant's last known address, and as soon as
* 5 practicable give notice, except to any executor, by ordinary
6 mail to the surviving spouse, each heir of the decedent and
7 each devisee under the will admitted to probate whose
8 identities are reasonably ascertainable, at such persons' last
9 known addresses, a notice of admission of the will to probate
10 and of the appointment of the executor, in which shall be
11 included a notice that any action to set aside the probate of
12 the will must be brought within the later to occur of four
13 months from the date of the second publication of the notice
14 or one month from the date of mailing of this notice or
15 thereafter be forever barred, and in which shall be included a
16 notice to debtors to make payment, and to creditors having
17 claims against the estate to file them with the clerk within
18 four months from the second publication of the notice, or
19 thereafter be forever barred.

20 The notice shall be substantially in the following form:

21 Notice of Probate of Will, of Appointment of Executor,
22 and Notice to Creditors

23 In the District Court of Iowa

24 in and for County. Probate No.

25 In the Estate of, Deceased

26 To All Persons Interested in the Estate of,

27 Deceased, who died on or about, 19...:

28 You are hereby notified that on the day of,

29 19..., the last will and testament of, deceased,

30 bearing date of the ... day of, 19..., was admitted to

31 probate in the above named court and that was

32 appointed executor of the estate. Any action to set aside the

33 will must be brought in the district court of said county

34 within the later to occur of four months from the date of the

35 second publication of this notice or one month from the date

1 of mailing of this notice to all heirs of the decedent and
2 devisees under the will whose identities are reasonably
3 ascertainable, or thereafter be forever barred.

4 Notice is further given that all persons indebted to the
5 estate are requested to make immediate payment to the
6 undersigned, and creditors having claims against the estate
7 shall file them with the clerk of the above named district
8 court, as provided by law, duly authenticated, for allowance,
9 and unless so filed ~~within~~ by the later to occur of four
10 months from the second publication of this notice or one month
11 from the date of mailing of this notice (unless otherwise
12 allowed or paid) a claim is thereafter forever barred.

13 Dated this day of, 19...

14
15

Executor of estate

16
17

Address

18
19

Attorney for executor

20
21

Address

22 Date of second publication

23 day of, 19...

24 (Date to be inserted by publisher)

25 Sec. 4. Section 633.305, Code 1989, is amended to read as
26 follows:

27 633.305 NOTICE IF NO ADMINISTRATION.

28 On admission of a will to probate without administration of
29 the estate, and upon advanced payment of the costs by the
30 proponent, the clerk shall cause to be published, in the
31 manner prescribed in the preceding section, a notice of the
32 admission of the will to probate. ~~in-which~~ As soon as
33 practicable following the admission of the will to probate,
34 the proponent shall give notice of the admission of the will
35 to probate by ordinary mail addressed to the surviving spouse,

1 each heir of the decedent, and each devisee under the will
2 admitted to probate whose identities are reasonably
3 ascertainable, at such persons' last known addresses. The
4 notice of the admission of the will to probate shall be
5 included include a notice that any action to set aside the
6 will must be brought within the later to occur of four months
7 from the date of the second publication of the notice or one
8 month from the date of mailing of this notice, or thereafter
9 be barred.

10 The notice shall be substantially in the following form:

11 Notice of Proof of Will
12 Without Administration

13 In the District Court of Iowa
14 in and for County. Probate No.

15 In the Estate of, Deceased
16 To All Persons Interested in the Estate of,
17 Deceased, who died on or about, 19...:

18 You are hereby notified that on the day of
19, 19..., the last will and testament of
20, deceased, bearing date of the day of
21, 19..., was admitted to probate in the above
22 named court and there will be no present administration of the
23 estate. Any action to set aside the will must be brought in
24 the district court of ~~said~~ the county within the later to
25 occur of four months from the date of the second publication
26 of this notice or one month from the date of mailing of this
27 notice to all heirs of the decedent and devisees under the
28 will whose identities are reasonably ascertainable, or
29 thereafter be forever barred.

30 Dated this day of, 19..

31
32 Clerk of the district court

33
34 Attorney for estate
35

1 Address

2 Date of second publication

3 day of, 19..

4 (Date to be inserted by publisher)

5 Sec. 5. Section 633.309, Code 1989, is amended to read as
6 follows:

7 633.309 TIME WITHIN WHICH ACTION MUST BE COMMENCED.

8 An action to contest or set aside the probate of a will
9 must be commenced in the court in which the will was admitted
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11 date of second publication of notice of admission of the will
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17 follows:

18 633.410 LIMITATION ON FILING CLAIMS AGAINST DECEDENT'S
19 ESTATE.

20 All claims against a decedent's estate, other than charges,
21 whether due or to become due, absolute or contingent,
22 liquidated or unliquidated, founded on contract or otherwise,
23 are forever barred against the estate, the personal
24 representative, and the distributees of the estate, unless
25 filed with the clerk within the later to occur of four months
26 after the date of the second publication of the notice to
27 creditors or, as to each claimant whose identity is reasonably
28 ascertainable, one month after service of notice by ordinary
29 mail to the claimant's last known address. However, notice is
30 not required to be given by mail to any creditor whose claim
31 will be paid or otherwise satisfied during administration and
32 the personal representative may waive this the limitation on
33 filing provided under this section. This section does not bar
34 claims for which there is insurance coverage, to the extent of
35 the coverage, or claimants entitled to equitable relief due to

1 peculiar circumstances.

2 Sec. 7. Section 633.434, Code 1989, is amended to read as
3 follows:

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5 FOUR MONTHS' PERIOD.

6 The personal representative shall, as soon as practicable
7 following appointment, make reasonably diligent efforts to
8 ascertain the names and addresses of all persons believed to
9 own or possess claims against a decedent's estate.

10 Upon the expiration of the later to occur of four months
11 after the date of the second publication of notice to
12 creditors or one month after the service of the notice by
13 ordinary mail upon all claimants whose identities are
14 reasonably ascertainable, at their last known addresses and
15 whose claims will not or may not be paid or otherwise
16 satisfied during administration, the personal representative
17 shall pay the debts and charges against the estate in
18 accordance with this code. If it appears at any time that the
19 estate is or may be insolvent, that there are insufficient
20 funds on hand, or that there is other good and sufficient
21 cause, the personal representative may report that fact to the
22 court and apply for any order that the personal representative
23 deems necessary.

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25 the following new subsection:

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27 statutory requirements pertaining to claims have been complied
28 with and a statement as to whether all claims, including
29 charges, have been paid and whether a lien continues to exist
30 on any property as security for any claim.

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VARN, CH.
DOYLE
BENTLEMAN

SSB 150
JUDICIARY

SENATE FILE 275
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the administration of an estate and changing
2 certain notice provisions.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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23 claim which will not or may not be paid or otherwise satisfied
24 during administration, provide by ordinary mail to each such
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29 TO CREDITORS

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31 in and for County.
32 In the Estate of
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35 To All Persons Interested in the Estate of

1

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3 You are hereby notified that on the day of,
4 19..., the undersigned was appointed administrator of said the
5 estate.

6 Notice is hereby given that all persons indebted to the
7 estate are requested to make immediate payment to the
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9 shall file them with the clerk of the above named district
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17 Administrator of said the estate

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19 Address

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21 Attorney for said the administrator

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23 Address

24 Date of second publication

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26 (Date to be inserted by publisher)

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3 during administration, provide by ordinary mail to each such
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8 whose identities are reasonably ascertainable, at such
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10 will to probate and of the appointment of the executor, in
11 which shall be included a notice that any action to set aside
12 the probate of the will must be brought within the later to
13 occur of four months from the date of the second publication
14 of the notice or one month from the date of mailing of this
15 notice or thereafter be forever barred, and in which shall be
16 included a notice to debtors to make payment, and to creditors
17 having claims against the estate to file them with the clerk
18 within four months from the second publication of the notice,
19 or thereafter be forever barred.

20 The notice shall be substantially in the following form:

21 Notice of Probate of Will, of Appointment of Executor,
22 and Notice to Creditors

23 In the District Court of Iowa

24 in and for County. Probate No.

25 In the Estate of, Deceased

26 To All Persons Interested in the Estate of ,

27 Deceased, who died on or about, 19...:

28 You are hereby notified that on the ... day of,

29 19..., the last will and testament of, deceased,

30 bearing date of the ... day of, 19..., was admitted to

31 probate in the above named court and that was

32 appointed executor of the estate. Any action to set aside the

33 will must be brought in the district court of said county

34 within the later to occur of four months from the date of the

35 second publication of this notice or one month from the date

1 of mailing of this notice to all heirs of the decedent and
2 devisees under the will whose identities are reasonably
3 ascertainable, or thereafter be forever barred.

4 Notice is further given that all persons indebted to the
5 estate are requested to make immediate payment to the
6 undersigned, and creditors having claims against the estate
7 shall file them with the clerk of the above named district
8 court, as provided by law, duly authenticated, for allowance,
9 and unless so filed ~~within~~ by the later to occur of four
10 months from the second publication of this notice or one month
11 from the date of mailing of this notice (unless otherwise
12 allowed or paid) a claim is thereafter forever barred.

13 Dated this day of, 19...

14

15 Executor of estate

16

17 Address

18

19 Attorney for executor

20

21 Address

22 Date of second publication

23 day of, 19...

24 (Date to be inserted by publisher)

25 Sec. 4. Section 633.305, Code 1989, is amended to read as
26 follows:

27 633.305 NOTICE IF NO ADMINISTRATION.

28 On admission of a will to probate without administration of
29 the estate, and upon advanced payment of the costs by the
30 proponent, the clerk shall cause to be published, in the
31 manner prescribed in the preceding section, a notice of the
32 admission of the will to probate. in-which As soon as
33 practicable following the admission of the will to probate,
34 the proponent shall give notice of the admission of the will
35 to probate by ordinary mail addressed to the surviving spouse,

1 each heir of the decedent, and each devisee under the will
2 admitted to probate whose identities are reasonably
3 ascertainable, at such persons' last known addresses. The
4 notice of the admission of the will to probate shall be
5 included include a notice that any action to set aside the
6 will must be brought within the later to occur of four months
7 from the date of the second publication of the notice or one
8 month from the date of mailing of this notice, or thereafter
9 be barred.

10 The notice shall be substantially in the following form:

11 Notice of Proof of Will
12 Without Administration

13 In the District Court of Iowa
14 in and for County. Probate No.
15 In the Estate of, Deceased
16 To All Persons Interested in the Estate of,
17 Deceased, who died on or about, 19...:

18 You are hereby notified that on the day of
19, 19..., the last will and testament of
20, deceased, bearing date of the day of
21, 19..., was admitted to probate in the above
22 named court and there will be no present administration of the
23 estate. Any action to set aside the will must be brought in
24 the district court of ~~said~~ the county within the later to
25 occur of four months from the date of the second publication
26 of this notice or one month from the date of mailing of this
27 notice to all heirs of the decedent and devisees under the
28 will whose identities are reasonably ascertainable, or
29 thereafter be forever barred.

30 Dated this day of, 19..
31

32 Clerk of the district court

33

34 Attorney for estate

35

- 1 Address
- 2 Date of second publication
- 3 day of, 19..
- 4 (Date to be inserted by publisher)

5 Sec. 5. Section 633.309, Code 1989, is amended to read as
6 follows:

7 633.309 TIME WITHIN WHICH ACTION MUST BE COMMENCED.

8 An action to contest or set aside the probate of a will
9 must be commenced in the court in which the will was admitted
10 to probate within the later to occur of four months from the
11 date of second publication of notice of admission of the will
12 to probate or one month following the mailing of the notice to
13 all heirs of the decedent and devisees under the will whose
14 identities are reasonably ascertainable, at such persons' last
15 known addresses.

16 Sec. 6. Section 633.410, Code 1989, is amended to read as
17 follows:

18 633.410 LIMITATION ON FILING CLAIMS AGAINST DECEDENT'S
19 ESTATE.

20 All claims against a decedent's estate, other than charges,
21 whether due or to become due, absolute or contingent,
22 liquidated or unliquidated, founded on contract or otherwise,
23 are forever barred against the estate, the personal
24 representative, and the distributees of the estate, unless
25 filed with the clerk within the later to occur of four months
26 after the date of the second publication of the notice to
27 creditors or, as to each claimant whose identity is reasonably
28 ascertainable, one month after service of notice by ordinary
29 mail to the claimant's last known address. However, notice is
30 not required to be given by mail to any creditor whose claim
31 will be paid or otherwise satisfied during administration and
32 the personal representative may waive this the limitation on
33 filing provided under this section. This section does not bar
34 claims for which there is insurance coverage, to the extent of
35 the coverage, or claimants entitled to equitable relief due to

1 peculiar circumstances.

2 Sec. 7. Section 633.434, Code 1989, is amended to read as
3 follows:

4 633.434 PAYMENT OF DEBTS AND CHARGES AFTER EXPIRATION OF
5 FOUR MONTHS' PERIOD.

6 The personal representative shall, as soon as practicable
7 following appointment, make reasonably diligent efforts to
8 ascertain the names and addresses of all persons believed to
9 own or possess claims against a decedent's estate.

10 Upon the expiration of the later to occur of four months
11 after the date of the second publication of notice to
12 creditors or one month after the service of the notice by
13 ordinary mail upon all claimants whose identities are
14 reasonably ascertainable, at their last known addresses and
15 whose claims will not or may not be paid or otherwise
16 satisfied during administration, the personal representative
17 shall pay the debts and charges against the estate in
18 accordance with this code. If it appears at any time that the
19 estate is or may be insolvent, that there are insufficient
20 funds on hand, or that there is other good and sufficient
21 cause, the personal representative may report that fact to the
22 court and apply for any order that the personal representative
23 deems necessary.

24 Sec. 8. Section 633.477, Code 1989, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 12. A statement as to whether all
27 statutory requirements pertaining to claims have been complied
28 with and a statement as to whether all claims, including
29 charges, have been paid and whether a lien continues to exist
30 on any property as security for any claim.

31 EXPLANATION

32 This bill provides for certain changes relating to notice
33 provisions in the administration of estates. If a petition,
34 report, or application for an order in probate is certified, a
35 written certification is to be included that the petition,

1 report, or application is correct. The administrator is
2 required to notify by ordinary mail at any time during the
3 pendency of administration of an estate, any person the
4 administrator believes owns or possesses a claim which will
5 not or may not be paid or otherwise satisfied during
6 administration.

7 Any action to set aside the probate of the will, under the
8 provisions related to administration of a will with or without
9 administration, must be filed within the later to occur of
10 four months (current law) and one month from the date of
11 mailing of the notice to heirs of the decedent and devisees
12 under the will as required under the affected sections.
13 Claims against the decedent's estate must be made within that
14 same time frame.

15 Payment of debts and charges is to be made upon the
16 expiration of the later of four months or one month after the
17 service of the notice by ordinary mail upon all claimants
18 whose identities are reasonably ascertainable at their last
19 known addresses and whose claims will not or may not be paid
20 or otherwise satisfied during administration.

21 The bill also provides that the personal representative is
22 to file a statement as to whether all statutory requirements
23 pertaining to claims have been complied with in the personal
24 representative's final report.

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SENATE FILE 275

NOTICE OF APPOINTMENT OF ADMINISTRATOR AND NOTICE TO CREDITORS

AN ACT RELATING TO THE ADMINISTRATION OF AN ESTATE AND CHANGING CERTAIN NOTICE PROVISIONS.

In the District Court of Iowa in and for ... County. In the Estate of ... deceased

Probate No.

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

Section 1. Section 633.35, Code 1989, is amended to read as follows:

633.35 REPORTS AND APPLICATIONS FOR ORDERS.

All petitions, reports, and applications for orders in probate must be in writing, verified, acknowledged or certified, and self-explanatory, so that the clerk or court from a perusal thereof may understand the relief sought without explanations. If the petition, report, or application is certified, substantially the following language shall be used: "I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct."

To All Persons Interested in the Estate of ... deceased, who died on or about ..., 19...

You are hereby notified that on the ... day of ..., 19..., the undersigned was appointed administrator of said the estate.

Notice is hereby given that all persons indebted to the estate are requested to make immediate payment to the undersigned, and creditors having claims against the estate shall file them with the clerk of the above named district court, as provided by law, duly authenticated, for allowance, and unless so filed within by the later to occur of four months from the second publication of this notice or one month from the date of the mailing of this notice (unless otherwise allowed or paid) a claim is thereafter forever barred.

Sec. 2. Section 633.230, Code 1989, is amended to read as follows:

633.230 NOTICE IN INTESTATE ESTATES.

In intestate matters, the administrator shall, as soon as letters are issued, shall cause to be published once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the estate is pending, and at any time during the pendency of administration that the administrator has knowledge of the name and address of a person believed to own or possess a claim which will not or may not be paid or otherwise satisfied during administration, provide by ordinary mail to each such claimant at the claimant's last known address, a notice of appointment which shall be in substantially the following form:

Dated this ... day of ..., 19...

Administrator of said the estate

Address

Attorney for said the administrator

Address

Date of second publication ... day of ..., 19...

(Date to be inserted by publisher)

Sec. 3. Section 633.304, Code 1989, is amended to read as follows:

633.304 NOTICE OF PROBATE OF WILL WITH ADMINISTRATION.

On admission of a will to probate, the executor shall, as soon as letters are issued, shall cause to be published once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the estate is pending and at any time during the pendency of administration that the executor has knowledge of the name and address of a person believed to own or possess a claim which will not or may not be paid or otherwise satisfied during administration, provide by ordinary mail to each such claimant at the claimant's last known address, and as soon as practicable give notice, except to any executor, by ordinary mail to the surviving spouse, each heir of the decedent and each devisee under the will admitted to probate whose identities are reasonably ascertainable, at such persons' last known addresses, a notice of admission of the will to probate and of the appointment of the executor, in which shall be included a notice that any action to set aside the probate of the will must be brought within the later to occur of four months from the date of the second publication of the notice or one month from the date of mailing of this notice or thereafter be forever barred, and in which shall be included a notice to debtors to make payment, and to creditors having claims against the estate to file them with the clerk within four months from the second publication of the notice, or thereafter be forever barred.

The notice shall be substantially in the following form:

Notice of Probate of Will, of Appointment of Executor, and Notice to Creditors

In the District Court of Iowa
in and for County. Probate No.
In the Estate of Deceased
To All Persons Interested in the Estate of
Deceased, who died on or about 19....

You are hereby notified that on the day of, 19..., the last will and testament of, deceased, bearing date of the ... day of, 19..., was admitted to probate in the above named court and that was appointed executor of the estate. Any action to set aside the will must be brought in the district court of said county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, or thereafter be forever barred.

Notice is further given that all persons indebted to the estate are requested to make immediate payment to the undersigned, and creditors having claims against the estate shall file them with the clerk of the above named district court, as provided by law, duly authenticated, for allowance, and unless so filed within by the later to occur of four months from the second publication of this notice or one month from the date of mailing of this notice (unless otherwise allowed or paid) a claim is thereafter forever barred.

Dated this day of, 19...

.....
Executor of estate
.....
Address

.....
Attorney for executor
.....
Address

Date of second publication
..... day of, 19...
(Date to be inserted by publisher)

Sec. 4. Section 633.305, Code 1989, is amended to read as follows:

633.305 NOTICE IF NO ADMINISTRATION.

On admission of a will to probate without administration of the estate, and upon advanced payment of the costs by the proponent, the clerk shall cause to be published, in the manner prescribed in the preceding section, a notice of the admission of the will to probate, in-which As soon as practicable following the admission of the will to probate, the proponent shall give notice of the admission of the will to probate by ordinary mail addressed to the surviving spouse, each heir of the decedent, and each devisee under the will admitted to probate whose identities are reasonably ascertainable, at such persons' last known addresses. The notice of the admission of the will to probate shall be included include a notice that any action to set aside the will must be brought within the later to occur of four months from the date of the second publication of the notice or one month from the date of mailing of this notice, or thereafter be barred.

The notice shall be substantially in the following form:

Notice of Proof of Will
Without Administration

In the District Court of Iowa
in and for County. Probate No.
In the Estate of, Deceased
To All Persons Interested in the Estate of,
Deceased, who died on or about, 19...:

You are hereby notified that on the day of, 19..., the last will and testament of, deceased, bearing date of the day of, 19..., was admitted to probate in the above named court and there will be no present administration of the estate. Any action to set aside the will must be brought in the district court of said the county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the

will whose identities are reasonably ascertainable, or thereafter be forever barred.

Dated this day of, 19..

.....
Clerk of the district court

.....
Attorney for estate

.....
Address

Date of second publication

.... day of, 19..

(Date to be inserted by publisher)

Sec. 5. Section 633.309, Code 1989, is amended to read as follows:

633.309 TIME WITHIN WHICH ACTION MUST BE COMMENCED.

An action to contest or set aside the probate of a will must be commenced in the court in which the will was admitted to probate within the later to occur of four months from the date of second publication of notice of admission of the will to probate or one month following the mailing of the notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, at such persons' last known addresses.

Sec. 6. Section 633.410, Code 1989, is amended to read as follows:

633.410 LIMITATION ON PILING CLAIMS AGAINST DECEDENT'S ESTATE.

All claims against a decedent's estate, other than charges, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or otherwise, are forever barred against the estate, the personal representative, and the distributees of the estate, unless filed with the clerk within the later to occur of four months after the date of the second publication of the notice to creditors or, as to each claimant whose identity is reasonably

ascertainable, one month after service of notice by ordinary mail to the claimant's last known address. However, notice is not required to be given by mail to any creditor whose claim will be paid or otherwise satisfied during administration and the personal representative may waive this the limitation on filing provided under this section. This section does not bar claims for which there is insurance coverage, to the extent of the coverage, or claimants entitled to equitable relief due to peculiar circumstances.

Sec. 7. Section 633.434, Code 1989, is amended to read as follows:

633.434 PAYMENT OF DEBTS AND CHARGES AFTER EXPIRATION OF FOUR MONTHS' PERIOD.

The personal representative shall, as soon as practicable following appointment, make reasonably diligent efforts to ascertain the names and addresses of all persons believed to own or possess claims against a decedent's estate.

Upon the expiration of the later to occur of four months after the date of the second publication of notice to creditors or one month after the service of the notice by ordinary mail upon all claimants whose identities are reasonably ascertainable, at their last known addresses and whose claims will not or may not be paid or otherwise satisfied during administration, the personal representative shall pay the debts and charges against the estate in accordance with this code. If it appears at any time that the estate is or may be insolvent, that there are insufficient funds on hand, or that there is other good and sufficient cause, the personal representative may report that fact to the court and apply for any order that the personal representative deems necessary.

Sec. 8. Section 633.477, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A statement as to whether all statutory requirements pertaining to claims have been complied

with and a statement as to whether all claims, including charges, have been paid and whether a lien continues to exist on any property as security for any claim.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 275, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved 4/20, 1989

TERRY E. BRANSTAD
Governor