

House File 587 - Introduced

HOUSE FILE 587
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 182)

(COMPANION TO SF 235 BY
COMMITTEE ON JUDICIARY)

A BILL FOR

1 An Act relating to the denial and contest of probate claims.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 633.438, Code 2021, is amended to read
2 as follows:

3 **633.438 General denial of claims.**

4 Where a claim has been filed, but not admitted in writing
5 by the personal representative before a request for hearing
6 has been given as hereinafter provided, the claim shall be
7 considered as generally denied by the personal representative
8 without any pleading on behalf of the personal representative.

9 Sec. 2. Section 633.440, Code 2021, is amended to read as
10 follows:

11 **633.440 Contents of notice of disallowance.**

12 Such a notice of disallowance shall advise the claimant
13 that the claim has been disallowed and will be forever barred
14 unless the claimant shall within twenty days after the date of
15 mailing the notice, file a request for hearing on the claim
16 with the clerk, ~~and mail a copy of such request for hearing to~~
17 ~~the personal representative and the attorney of record, if any,~~
18 ~~by certified mail.~~

19 Sec. 3. Section 633.442, Code 2021, is amended to read as
20 follows:

21 **633.442 Claims barred after twenty days.**

22 Unless the claimant shall within twenty days after the
23 date of mailing the notice of disallowance, file a request
24 for hearing with the clerk ~~and mail a copy of the request for~~
25 ~~hearing to the personal representative and to the attorney of~~
26 ~~record, if any,~~ the claim shall be deemed disallowed, and shall
27 be forever barred.

28 Sec. 4. Section 633.443, Code 2021, is amended to read as
29 follows:

30 **633.443 Request for hearing by claimant.**

31 At the time of the filing of a claim against an estate, or
32 at any time thereafter prior to the time that the claim may be
33 barred by the provisions of [section 633.442](#), or the approval of
34 the final report of the personal representative after notice to
35 the claimant, the claimant may file a request for hearing with

1 the clerk, ~~and mail a copy of the request for hearing to the~~
2 ~~personal representative and attorney of record, if any.~~

3 Sec. 5. Section 633.444, Code 2021, is amended to read as
4 follows:

5 **633.444 Applicability of rules of civil procedure.**

6 ~~Within twenty days from the filing of the request for~~
7 ~~hearing on a claim, the personal representative shall move or~~
8 ~~plead to said claim~~ The personal representative shall file a
9 pre-answer motion or answer to a claim within twenty days from
10 the filing of the request for hearing on the claim in the same
11 manner as though the claim were a petition filed in an ordinary
12 action, and thereafter, all provisions of law and rules of
13 civil procedure applicable to motions, pleadings and the trial
14 of ordinary actions shall apply; provided, however, that a
15 restatement of such claim shall not be barred by the provisions
16 of [section 633.410](#).

17 Sec. 6. Section 633.447, Code 2021, is amended to read as
18 follows:

19 **633.447 Trial and hearing.**

20 The trial of a claim and the offsets or counterclaims, if
21 any, shall be to the court without a jury. However, the court
22 may, in its discretion, either on its own motion or upon the
23 motion of any party, submit the matter to a jury. In the event
24 that the amount of the claim or a counterclaim exceeds the sum
25 ~~of three hundred dollars~~ stated in section 631.1, subsection
26 1, either party shall be entitled to a jury trial, if a written
27 demand is made as provided in the rules of civil procedure in
28 relation to the trial of ordinary actions.

29 Sec. 7. Section 633.448, Code 2021, is amended to read as
30 follows:

31 **633.448 Allowance and judgment.**

32 Upon the trial of a claim, offsets and counterclaims, the
33 amount owing by or to the estate, if any, shall be determined.
34 A claim against the estate shall be allowed for the net amount.
35 Judgment shall be rendered for any amount found to be due the

1 estate. If a judgment is rendered against a claimant for
2 any net amount, execution may issue in the same manner as on
3 judgments in civil cases. The judgment against any interested
4 party may be deducted from any amounts the estate owes to the
5 interested party.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill amends the probate code relating to the denial and
10 contest of claims and counterclaims. The bill provides that
11 for general denials of claims when a claim has been filed, but
12 not admitted in writing by a personal representative before a
13 hearing request, the claim is considered as generally denied
14 by the personal representative.

15 The bill removes the requirement on the claimant to mail a
16 copy of a request for hearing to the personal representative
17 and to the attorney of record, if any, from Code sections
18 633.440, 633.442, and 633.443.

19 The bill provides that the personal representative shall
20 file a pre-answer motion or answer to a claim within 20 days of
21 the filing of the request for hearing on a claim in the same
22 manner as though the claim was a petition filed in an ordinary
23 action.

24 The bill provides that if the amount of the claim exceeds the
25 small claims court jurisdictional amount (\$6,500 for actions
26 commenced on or after July 1, 2018), either party is entitled
27 to a jury trial if a written demand is made. Under current law,
28 either party is entitled to a jury trial if the amount of the
29 claim exceeds \$300.

30 The bill provides that a judgment against any interested
31 party may be deducted from any amounts owed by the estate to
32 the interested party.