

CHAPTER 293

SHERIFFS' DEEDS AT EXECUTION SALE

S. F. 333

AN ACT relating to issuance of sheriffs' deeds to purchasers under special execution sale.

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

1 SECTION 1. Section six hundred twenty-six point ninety-five (626.95),
2 Code 1966, is hereby amended by inserting in line eight (8) after the words
3 "one year thereafter" the words "or such other time as may be specifically
4 provided for particular actions".

1 SEC. 2. Section six hundred twenty-six point ninety-eight (626.98), Code
2 1966, is hereby amended by striking from line three (3) the words "at the
3 end of the year" and inserting in lieu thereof the words "at the end of the
4 period for redemption provided by law for the particular action".

Approved May 1, 1969.

CHAPTER 294

PROBATE

S. F. 289

AN ACT relating to various changes in the probate law.

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

1 SECTION 1. Section six hundred thirty-three point sixty-three
2 (633.63), Code 1966, is repealed and the following enacted in lieu thereof:
3 **"Qualification of fiduciary — resident.**

4 1. Any natural person of full age, who is a resident of this state, is qual-
5 ified to serve as a fiduciary, except the following:

6 a. One who is a mental retardate, mentally ill, a chronic alcoholic,
7 or a spendthrift.

8 b. Any other person whom the court determines to be unsuitable.

9 2. Banks and trust companies organized under the laws of the United
10 States or of the state of Iowa and authorized to act in a fiduciary capacity
11 in Iowa."

1 SEC. 2. Section six hundred thirty-three point sixty-four (633.64),
2 Code 1966, is repealed and the following enacted in lieu thereof:

3 **"Qualification of fiduciary — nonresident.** The court may, upon
4 application, appoint the following nonresidents as fiduciaries:

5 1. *Natural persons.* A natural person who is a nonresident of this
6 state and who is otherwise qualified under the provisions of section six hun-
7 dred thirty-three point sixty-three (633.63), provided a resident fiduciary is
8 appointed to serve with such nonresident fiduciary; and provided further
9 that the court, for good cause shown, may appoint such nonresident fidu-
10 ciary to serve alone without the appointment of a resident fiduciary.

11 2. *Banks and trust companies.* Banks and trust companies organized
12 under the laws of the United States or of another state and authorized

13 to act in a fiduciary capacity in another state, if banks and trust compa-
 14 nies of this state are permitted to act as fiduciary under similar conditions
 15 in the state where such bank or trust company is located."

1 SEC. 3. Chapter six hundred thirty-three (633), Code 1966, is amended
 2 by adding as a new section the following:

3 "633.71. **Legal effect of appointment.** By qualifying as fiduciary any
 4 person, resident or nonresident, submits himself to the jurisdiction of the
 5 court making the appointment of the fiduciary and, in addition, shall be
 6 deemed to agree that:

7 1. All property coming into his hands is subject to the jurisdiction of the
 8 court wherein is pending the proceedings in which he is serving, and

9 2. He is subject to all orders entered by the court in the proceedings
 10 in which he is serving and that notices served upon him with respect
 11 thereto in compliance with the procedure prescribed by the Code shall have
 12 the same force and effect as if such service had been personally made upon
 13 him within the state.

14 3. He shall be subject to the jurisdiction of the courts of this state in
 15 all actions and proceedings against him arising from or growing out of his
 16 fiduciary relationship and activities and that the service of process in such
 17 actions and proceedings may be made upon him by serving the original
 18 notice upon him outside this state and that such service shall have the same
 19 force and effect as though the service had been personally made upon the
 20 fiduciary within this state.

21 4. The clerk of the court in which is pending the proceedings in which
 22 the fiduciary is serving is the lawful attorney or resident agent of such non-
 23 resident fiduciary upon whom service of process may be made whether such
 24 process be an order of the court entered in the proceedings in which the fi-
 25 duciary is serving or an original notice of an action arising from or growing
 26 out of the fiduciary relationship and activities of the nonresident fiduciary."

1 SEC. 4. Chapter six hundred thirty-three (633), Code 1966, is amend-
 2 ed by adding as a new section the following:

3 "633.72. **Manner of service.** Service of an original notice of an ac-
 4 tion or process upon a nonresident fiduciary as herein provided may be
 5 made upon such fiduciary either by:

6 1. Delivering four copies of said notice or of said process to the clerk of
 7 court wherein the proceedings in which such fiduciary is serving are pend-
 8 ing; or

9 2. Mailing four copies of said original notice or of said process by certified
 10 mail addressed to said clerk of court by his official title.

11 Upon receipt of said copies, such clerk of court shall immediately
 12 acknowledge and accept service thereof on behalf of the nonresident
 13 fiduciary by writing thereon or attaching thereto his written acknowledg-
 14 ment and acceptance of such service on behalf of such nonresident fidu-
 15 ciary, giving the date thereof.

16 The clerk of court shall forthwith:

17 1. File one copy in the action or proceedings to which it relates if pend-
 18 ing in the court of which he is clerk, or transmit such notice or process
 19 and his acknowledgment and acceptance of the service thereof by certified
 20 mail to the clerk of court in which the action or proceedings is pending.

21 2. Mail one copy of such original notice or process and a copy of his
 22 written acknowledgment and acceptance of service thereof by certified mail

23 to the nonresident fiduciary at the last address of such fiduciary as shown
24 by the records in the proceedings in which such fiduciary is serving.

25 3. Mail one copy of such original notice or process and a copy of his
26 written acknowledgment and acceptance of service thereof by certified mail
27 to the attorney of record for such fiduciary.

28 4. Retain a copy of such original notice or process for his files.

29 Said service upon the clerk of court as herein provided shall have the
30 same force and effect as if served upon the nonresident fiduciary personal-
31 ly within the state of Iowa on the date stated in said acknowledgment
32 and acceptance of such service by the clerk of court."

1 SEC. 5. Chapter six hundred thirty-three (633), Code 1966, is amended
2 by adding as a new section the following:

3 "633.103. **Certain corporate distributions.** In the absence of con-
4 trary provisions in the will or trust instrument, the following types of
5 corporate distributions shall be treated as follows:

6 1. Commencing with such distributions to shareholders of record on or
7 after July 1, 1969, corporate distributions of shares of the distributing cor-
8 poration, including distributions in the form of a share split or share divi-
9 dend, are principal. A right to subscribe to shares or other securities issued
10 by the distributing corporation accruing to shareholders on account of
11 their share ownership and the proceeds of any sale of the right are princi-
12 pal.

13 2. Distributions made from ordinary income by a regulated investment
14 company or by a trust qualifying and electing to be taxed under federal
15 law as a real estate investment trust are income. All other distributions
16 made by the company or trust, including distributions from capital gains,
17 depreciation, or depletion, whether in the form of cash or an option to take
18 new shares or cash or an option to purchase additional shares, are princi-
19 pal."

1 SEC. 6. Section six hundred thirty-three point one hundred seventy-
2 two (633.172), Code 1966, is amended by adding at the end thereof the fol-
3 lowing new subsection and renumbering the existing section as subsection
4 one (1).

5 "2. Unless otherwise required by the instrument creating the relation-
6 ship, or by order of court, a corporate fiduciary shall not be required to
7 provide any bond."

1 SEC. 7. Section six hundred thirty-three point two hundred twenty-
2 three (633.223), Code 1966, is repealed and the following enacted in lieu
3 thereof:

4 **"Effect of adoption.**

5 1. A lawfully adopted person and his heirs shall inherit from and through
6 the adoptive parents the same as a natural born child. The adoptive par-
7 ents and their heirs shall inherit from and through the adopted person
8 the same as though he were a natural born child.

9 2. A lawful adoption shall extinguish the right of inheritance on the part
10 of the adopted person from and through his natural parents, except that
11 the adopted person may also inherit from his natural parent or parents
12 in an intestate estate under the following circumstances:

13 a. When the adopted person has attained his majority at the time of
14 the adoption; or

15 *b.* When the adopted person is related to one or both of the adoptive
16 parents within the fourth degree of consanguinity.

17 3. A lawful adoption shall extinguish the right of inheritance of the nat-
18 ural parent or parents from and through the adopted person except that
19 the natural parent or parents may inherit from such adopted person in an
20 intestate estate under the following circumstances:

21 *a.* When the adopted person has attained his majority at the time of
22 the adoption, and the adoptive parents are deceased at the time of the
23 adopted person's death, or

24 *b.* When the adopted person is related to one or both of the adoptive
25 parents within the fourth degree of consanguinity.

1 SEC. 8. Section six hundred thirty-three point three hundred nine
2 (633.309), Code 1966, is amended as follows:

3 1. Strike from line one (1) the words "A petition" and insert in lieu there-
4 of the words "An action".

5 2. Strike from line two (2) the word "filed" and insert in lieu thereof
6 the word "commenced".

1 SEC. 9. Section six hundred thirty-three point three hundred forty-two
2 (633.342), Code 1966, is repealed and the following enacted in lieu thereof:

3 **"Appointment of temporary administrator pending administration.**

4 1. When, from any cause, probate of a will or administration cannot be
5 immediately granted, a temporary administrator may be appointed to col-
6 lect, manage, preserve and dispose of the property of the deceased, as the
7 court may prescribe, and no appeal from such appointment shall prevent
8 his proceeding in the discharge of his duties.

9 2. Such temporary administrator shall make and file an inventory of the
10 property of the deceased in the same manner as is required of personal rep-
11 resentative, and shall preserve such property from injury, and may do all
12 needful acts under the direction of the court, including the sale of property
13 and the payment of claims as directed by the court. Upon the granting of
14 administration, the powers of the temporary administrator shall cease, and
15 the administration of the estate shall be transferred to the personal repre-
16 sentative to whom letters are granted."

1 SEC. 10. Section six hundred thirty-three point three hundred forty-
2 three (633.343), Code 1966, is repealed and the following enacted in lieu
3 thereof:

4 **"Appointment of temporary administrator during administration.**

5 At any time during the administration of an estate, the court, for good
6 cause shown, may appoint a temporary administrator to carry out such
7 orders of the court as may be necessary for the proper administration of
8 such estate. No appeal from such appointment shall prevent the tempo-
9 rary administrator from proceeding in the discharge of his duties."

1 SEC. 11. Section six hundred thirty-three point three hundred eighty-
2 nine (633.389), Code 1966, is amended by adding at the end thereof the fol-
3 lowing:

4 "For the purposes of this section, the term 'all persons interested' shall
5 include only distributees in the estate and persons who have requested
6 notice as provided by this Code."

1 SEC. 12. Section six hundred thirty-three point four hundred seventy-
2 one (633.471), Code 1966, is repealed and the following enacted in lieu
3 thereof:

4 **"Right of retainer.** When a distributee of an estate is indebted to
5 the estate, or if a distributee takes as an heir of a deceased devisee indebted
6 to the estate, the amount of such indebtedness, if due, or the present worth
7 of the indebtedness, if not due, shall be treated as a setoff and retained by
8 the personal representative out of any testate or intestate property, real
9 or personal, of the estate to which such distributee is entitled. In intestate
10 estates, the personal representative shall have the same right of setoff and
11 retainer against an heir whose ancestor was indebted to the estate. The
12 right of setoff and retainer shall be prior and superior to the rights of judg-
13 ment creditors, heirs or assigns of such distributee and shall not be barred
14 by the statute of limitations, nor by a discharge in bankruptcy."

1 SEC. 13. Section six hundred thirty-three point four hundred ninety-
2 six (633.496), Code 1966, is amended as follows:

3 1. Strike from lines five (5) and six (6) the word "attestation" and insert
4 in lieu thereof the word "certificate".

5 2. Strike from line eight (8) the word "attestation" and insert in lieu
6 thereof the word "certificate".

Approved June 5, 1969.

CHAPTER 295

TERMS OF COURT

S. F. 187

AN ACT relating to terms of district court.

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

1 SECTION 1. Chapter four hundred (400), Acts of the Sixty-second Gen-
2 eral Assembly, is amended by striking sections two hundred twenty (220)
3 and two hundred twenty-one (221).

Approved March 28, 1969.

CHAPTER 296

FEDERAL INSURED LOANS

H. F. 697

AN ACT relating to federal insured loans.

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

1 SECTION 1. Section six hundred eighty-two point forty-five (682.45),
2 Code 1966, is hereby amended as follows:

3 1. By striking from line two (2) the words "and building and loan asso-
4 ciations," and inserting in lieu thereof the words ", building and loan asso-