

JUDICIAL PROCEDURE, PROBATE

CHAPTER 205

H. B. No. 763
(McLellan and Holand)

CONTENTS AND FORM OF CITATIONS OR NOTICES IN COUNTY COURT PROCEEDINGS

AN ACT

To amend and reenact section 30-0208 of the North Dakota Revised Code of 1943 as amended by chapter 208 of the 1951 Session Laws, relating to contents and form of citations or notices in county court proceedings.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 30-0208 of the North Dakota Revised Code of 1943 as amended by chapter 208 of the 1951 session laws, is hereby amended and reenacted to read as follows:

30-0208. CONTENTS AND FORM OF CITATION OR NOTICE.) A citation or notice in county court shall be issued substantially in the following form:

STATE OF NORTH DAKOTA)
) ss. IN COUNTY COURT
 County of)

IN THE MATTER OF THE ESTATE OF.....Deceased:
 (or in the matter of the guardianship of.....
 a minor, or an incompetent person, as the case may be.)

.....Petitioner, NOTICE OF HEARING
 vs. PETITION FOR.....
Respondents.

THE STATE OF NORTH DAKOTA TO THE ABOVE NAMED RESPONDENTS:

You and each of you are hereby notified that a petition has been filed in this court for (here give nature of petition, residence or late residence of the owner of the estate, and other matter necessary to inform parties interested of the nature of the proceedings); that said petition will be heard at the office

of the county judge at the courthouse in the.....of
in the county of.....
 and State of North Dakota, on the.....day of
A. D. 19..... at the hour of.....o'clock
 M., of that day, or at such subsequent time or other place
 to which said hearing may be adjourned or transferred, at
 which time and place you may be heard if you wish.

Let service of this notice be made as required by law.

Dated this.....day of.....A. D. 19.....

By the court

(SEAL OF COURT)

.....
 Judge of the County Court.

Approved March 5, 1953.

CHAPTER 206

H. B. No. 758
 (Baker and Beede)

PERSONAL PROPERTY EXEMPTIONS IN PROBATE PRACTICE

AN ACT

To amend and reenact section 30-1606 of the North Dakota Revised Code of 1943 pertaining to personal property exemptions in probate practice.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 30-1606 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1606. EXEMPT PERSONAL PROPERTY; SELECTION. There also shall be set apart absolutely to the surviving wife or husband or minor children of a decedent all of the personal property of the decedent which by law is absolutely exempt to the head of the family, and other personal property selected by the surviving wife or husband or minor children to the amount in value of twenty-five hundred dollars according to the appraisal. Such property shall not be liable for any prior debt of

the decedent except the necessary charges of his last sickness and funeral and expenses of the administration, if there are no other assets available for the payment of such charges.

Approved March 10, 1953.

CHAPTER 207

H. B. No. 764
(McLellan, Holand)

RETURN OF INVENTORY AND APPRAISEMENT AND
HOMESTEAD AND OTHER EXEMPT PROPERTY

AN ACT

To amend and reenact section 30-1607 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to proceedings in county court in regard to inventory and appraisal and homestead and other exempt property.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 30-1607 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1607. RETURN OF INVENTORY AND APPRAISEMENT; OBJECTIONS; HEARING.) Upon the return of the inventory and appraisal in an estate, the court may fix a day for hearing objections thereto concerning the homestead and other exempt property, and the executor or administrator shall thereupon cause notice thereof to be given to all parties interested. At the hearing, the court may confirm the proceedings as to the inventory and appraisal and set apart the homestead and other exempt property, or may modify such proceedings or set them aside and order a new appraisal, as justice requires.

Approved March 5, 1953.

CHAPTER 208

H. B. No. 756
(Baker and Beede)

ADMINISTRATION OF SMALL ESTATES; MINIMUM AMOUNT;
ASSIGNMENT

AN ACT

To amend and reenact sections 30-1701 and 30-1705 of the North Dakota Revised Code of 1943 pertaining to the administration of small estates, and changing the minimum amount of such estates.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 30-1701 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1701. SUMMARY ADMINISTRATION PERMITTED.) There may be a summary administration of the estate of a deceased person as provided in this chapter, if:

1. Upon the return of the inventory of the estate of a deceased person it appears that:
 - a. The value of the whole estate does not exceed the sum of twenty-five hundred dollars; and
 - b. There is a surviving husband or wife or minor child or children of the deceased; or
2. A petition for a summary administration is filed as provided in section 30-1702.

§ 2. AMENDMENT.) Section 30-1705 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1705. ASSIGNMENT TO FAMILY SUBJECT TO LIENS AND EXPENSES.) If, upon the hearing held pursuant to a petition made as provided in section 30-1702, or upon the return of an inventory as provided in section 30-1701, the court finds that the value of the estate does not exceed the sum of twenty-five hundred dollars, it, by a decree for that purpose, shall assign the whole estate, real and personal, to:

1. The surviving husband or wife of the testator or intestate, if there is a surviving husband or wife;

2. The minor child or children of the deceased, if there are minor children, and there is no surviving husband or wife.

The estate assigned shall be subject to whatever mortgages, liens, or encumbrances may be in effect upon the estate at the time of the death of the testator or intestate, and to the payment of the expenses of the last illness of the decedent, funeral expenses, and expenses of administration. The title thereof shall vest absolutely in such surviving husband or wife or minor children subject to the mortgages, liens, or encumbrances upon said estate at the time of the death of the decedent and there must be no further proceedings in the administration unless further estate is discovered.

Approved March 10, 1953.

CHAPTER 209

H. B. No. 791

(Gefreh, Holand and Erickson of Bottineau)

SALE OF REAL PROPERTY OF AN ESTATE

AN ACT

To amend and reenact sections 30-1913 and 30-1914 of the North Dakota Revised Code of 1943 relating to sale of real estate of an estate.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 30-1913 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1913. TIME AND PLACE OF SALE.) A sale of real property of an estate at public auction must be made in the county where the land is situated, but if the land is situated in two or more counties, it may be sold in any county in which any part or parcel is situated. The sale must be made between the hours of nine o'clock a. m. and six o'clock p. m. of the same day and must be made at the time named in the notice of sale unless the same is postponed. If, at the time appointed for the sale, the executor or administrator deems it for the best interest of the estate that the sale be postponed, he may postpone it from

time to time but the sale may be made before a final decree is entered. In case of postponement, notice thereof must be given by a public declaration at the time and place first appointed for the sale, and if the postponement is for more than ten days, further notice must be given by publishing the same once each week for two successive weeks next before the sale.

§ 2. AMENDMENT.) Section 30-1914 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1914. PRIVATE SALE OF REAL ESTATE: NOTICE.) Where a sale of real property of an estate is ordered to be made at private sale, notice of the same must be published in a legal newspaper in the county in which the land is situated, and if none is published in the county, then in a paper in an adjoining county in the state, as the court may direct, once each week for two successive weeks, the last publication to be at least ten days before the day on or after which the sale is to be made. In such notice, the lands and tenements to be sold must be described with common certainty. The notice must state a day on or after which the sale will be made, and a place where offers or bids will be received. The sale must not be made before that day, but may be made before a final decree is entered.

Approved March 11, 1953.

CHAPTER 210

S. B. No. 94
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COLLECTION OF INCOME TAXES OWING AND UNPAID
BY DECEDENT AT TIME OF DEATH

AN ACT

Relating to income taxes which may have been owing and unpaid to the State of North Dakota by a decedent at the time of his death.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DUTY OF JUDGE OF COUNTY COURT.) No judge of the county court of any county in this state shall issue a final

decree of distribution in any probate proceeding pending in such court unless and until he receives from the state tax commissioner a statement in writing that all income taxes which may have theretofore been owing by the decedent to the state at the time of his death have been paid.

§ 2. DUTY OF THE TAX COMMISSIONER.) The tax commissioner, upon receipt by him of an application for determination of estate tax due from the estate of any decedent, shall search the records in his office and ascertain whether there is probable cause to believe that any income taxes were owing and unpaid by the decedent at the time of his death, and shall advise the judge of the county court in which such probate proceeding is pending accordingly. The executor or administrator of an estate, anytime after such executor or administrator has qualified for office, may request the tax commissioner to determine if decedent owed any income tax up to the time of the death of such decedent, and the tax commissioner shall submit a statement in writing to the judge of the county court in which such probate proceeding is pending stating whether or not any income tax is owing, and such statement shall be submitted by the tax commissioner within 90 days after receipt of the request from the executor or administrator.

§ 3. COLLECTION OF TAXES DUE.) In the event that there is probable cause to believe that there were income taxes unpaid and owing by said decedent at the time of his death the tax commissioner shall take immediate steps to ascertain and collect the amount thereof before any decree of distribution, distributing the assets of said estate, is issued.

Approved March 10, 1953.