

IN THE SENATE

SENATE BILL NO. 1246

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO ESTATES; AMENDING SECTION 15-3-101, IDAHO CODE, TO REMOVE A REF-
2 ERENCE TO FAMILY ALLOWANCE; AMENDING SECTION 15-3-1006, IDAHO CODE, TO
3 REVISE TIME LIMITATION PROVISIONS RELATING TO CREDITOR CLAIMS AGAINST
4 DISTRIBUTEES; AMENDING SECTION 15-3-1203 IDAHO CODE, TO REMOVE REFER-
5 ENCES TO FAMILY ALLOWANCE AND TO MAKE A TECHNICAL CORRECTION; AND AMEND-
6 ING SECTION 15-3-1204, IDAHO CODE, TO REMOVE REFERENCES TO FAMILY AL-
7 LOWANCE AND TO MAKE TECHNICAL CORRECTIONS.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 15-3-101, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 15-3-101. DEVOLUTION OF ESTATE AT DEATH -- RESTRICTIONS. The power of
13 a person to leave property by will, and the rights of creditors, devisees,
14 and heirs to his property are subject to the restrictions and limitations
15 contained in this code to facilitate the prompt settlement of estates. Upon
16 the death of a person, his separate property devolves to the persons to whom
17 it is devised by his last will, or to those indicated as substitutes for them
18 in cases involving lapse, renunciation or other circumstances affecting the
19 devolution of testate estates, or in the absence of testamentary disposition
20 to his heirs, or to those indicated as substitutes for them in cases involv-
21 ing renunciation or other circumstances affecting the devolution of intes-
22 tate estates, and upon the death of a husband or wife, the decedent's share of
23 their community property devolves to the persons to whom it is devised by his
24 last will, or in the absence of testamentary disposition, to the surviving
25 spouse, but all of their community property which is under the management and
26 control of the decedent is subject to his debts and administration, and that
27 portion of their community property which is not under the management and
28 control of the decedent but which is necessary to carry out the provisions
29 of his will is subject to administration; but the devolution of all the above
30 described property is subject to rights to homestead allowance, exempt prop-
31 erty and family allowances, to renunciation to rights of creditors, elective
32 share of the surviving spouse and to administration.

33 SECTION 2. That Section 15-3-1006, Idaho Code, be, and the same is
34 hereby amended to read as follows:

35 15-3-1006. LIMITATIONS ON ACTIONS AND PROCEEDINGS AGAINST DISTRIBU-
36 TEES. Unless previously adjudicated in a formal testacy proceeding or in a
37 proceeding settling the accounts of a personal representative or otherwise
38 barred, the claim of any claimant to recover from a distributee who is li-
39 able to pay the claim, and the right of any heir or devisee, or of a successor
40 personal representative acting in their behalf, to recover property improv-

1 erly distributed or the value thereof from any distributee is forever barred
 2 at the later of (i) three (3) years after the decedent's death; or (ii) one
 3 (1) year after the time of distribution thereof, except if the claim is by a
 4 creditor of the decedent, it is forever barred ~~two~~ three (23) years after the
 5 decedent's death. This section does not bar an action to recover property or
 6 value received as the result of fraud, or an action commenced by the state tax
 7 commission to collect state taxes.

8 SECTION 3. That Section 15-3-1203, Idaho Code, be, and the same is
 9 hereby amended to read as follows:

10 15-3-1203. SMALL ESTATES -- SUMMARY ADMINISTRATIVE PROCEDURE. If it
 11 appears from the inventory and appraisal that the value of the entire es-
 12 tate, less liens and encumbrances, does not exceed homestead allowance, ex-
 13 empt property, ~~family allowance~~, costs and expenses of administration, rea-
 14 sonable funeral expenses, and reasonable and necessary medical and hospital
 15 expenses of the last illness of the decedent, the personal representative,
 16 without giving notice to creditors, may immediately disburse and distribute
 17 the estate to the persons entitled thereto and file a closing statement as
 18 provided in section 15-3-1204 of this Part.

19 SECTION 4. That Section 15-3-1204, Idaho Code, be, and the same is
 20 hereby amended to read as follows:

21 15-3-1204. SMALL ESTATES -- CLOSING BY SWORN STATEMENT OF PERSONAL
 22 REPRESENTATIVE. (a) Unless prohibited by order of the court and except for
 23 estates being administered by supervised personal representatives, a per-
 24 sonal representative may close an estate administered under the summary
 25 procedures of section 15-3-1203 of this Part by filing with the court,
 26 at any time after disbursement and distribution of the estate, a verified
 27 statement that:

28 (1) ~~¶~~To the best knowledge of the personal representative, the value
 29 of the entire estate, less liens and encumbrances, did not exceed home-
 30 stead allowance, exempt property, ~~family allowance~~, costs and expenses
 31 of administration, reasonable funeral expenses, and reasonable, neces-
 32 sary medical and hospital expenses of the last illness of the decedent;

33 (2) ~~¶~~The personal representative has fully administered the estate by
 34 disbursing and distributing it to the persons entitled thereto; and

35 (3) ~~¶~~The personal representative has sent a copy of the closing state-
 36 ment to all distributees of the estate and to all creditors or other
 37 claimants of whom he is aware whose claims are neither paid nor barred
 38 and has furnished a full account in writing of his administration to the
 39 distributees whose interests are affected.

40 (b) If no actions or proceedings involving the personal representative
 41 are pending in the court one (1) year after the closing statement is filed,
 42 the appointment of the personal representative terminates.

43 (c) A closing statement filed under this section has the same effect as
 44 one filed under section 15-3-1003 of this code.