

SENATE BILL No. 379

By Committee on Judiciary

1-23

1 AN ACT concerning the Kansas probate code; providing a longer time for
2 notice to creditors by publication when a petition for administration or
3 probate of a will is filed; changing the process for transferring personal
4 property by affidavit in small estates; modifying time requirements for
5 notice by publication related to sales at public auction; amending
6 K.S.A. 59-709 and 59-2243 and K.S.A. 2023 Supp. 59-1507b and 59-
7 2308 and repealing the existing sections.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 59-709 is hereby amended to read as follows: 59-
11 709. (a) Every petitioner who files a petition for administration or probate
12 of a will shall give notice thereof to creditors, pursuant to an order of the
13 court, and within ~~10~~ 30 days after such filing. Such notice shall be
14 published in some newspaper of the county authorized by law to publish
15 legal notices and shall be published once a week for three consecutive
16 weeks. A petitioner for the appointment of a successor administrator,
17 administrator CTA or administrator DBN shall publish notice to creditors
18 only in the event the original petitioner for administration or for the
19 probate of a will had failed to give such notice.

20 (b) The personal representative of a decedent's estate shall give actual
21 notice to known or reasonably ascertainable creditors prior to the
22 expiration of the nonclaim statute.

23 (c) Notwithstanding any other notice requirements of the probate
24 code, notice to creditors shall not be necessary if a petition for
25 administration or probate of a will shall have been filed after the period of
26 time prescribed by K.S.A. 59-2239, and amendments thereto, for the
27 timely exhibit of creditors' claims.

28 Sec. 2. K.S.A. 2023 Supp. 59-1507b is hereby amended to read as
29 follows: 59-1507b. (a) When a resident of the state dies, whether testate or
30 intestate, if the total assets of the estate of the decedent subject to probate
31 do not exceed \$75,000 in value, any personal property of whatever nature
32 transferable to the decedent's estate by any entity or person shall be
33 transferred to ~~the~~ a person claiming to be a successor or successors of the
34 decedent, if entitled thereto by will or by intestate succession or in a
35 manner as directed by the successor, without having been granted letters of
36 administration or letters testamentary, upon such successor's or successors'

1 *successor* furnishing the entity or person with an affidavit showing
2 entitlement thereto.

3 (b) Transfer of such personal property to the successor or successors
4 shall be deemed to be a transfer to the personal representative of the
5 decedent, and the receipt of the successor or successors shall constitute a
6 full discharge and release from any further claim for such transfer to the
7 same extent as if the transfer had been made to an executor or
8 administrator of the decedent's estate. The affidavit required herein shall
9 be deemed sufficient if in substantial compliance with the form set forth by
10 the judicial council.

11 (c) *As used in this section, "successor" means a person:*

12 (1) *Entitled to the property by will or by intestate succession; or*

13 (2) *nominated as a personal representative under the decedent's will.*

14 Sec. 3. K.S.A. 59-2243 is hereby amended to read as follows: 59-
15 2243. In all sales at public auction, the personal representative shall give
16 notice containing a description of the property to be sold, and stating the
17 time, terms and place of sale, by publication once not less than 10 days
18 before the date of sale in some newspaper, authorized to publish legal
19 notices, of the county where the sale is to be held. *If the sale is being held*
20 *as an auction that takes place over more than one day, the notice shall be*
21 *published not less than 10 days before the first day that the auction is open*
22 *for bidding.*

23 Sec. 4. K.S.A. 2023 Supp. 59-2308 is hereby amended to read as
24 follows: 59-2308. In all sales at public auction the personal representative
25 shall give notice containing a particular description of the real estate to be
26 sold, and such notice shall state the time, terms and place of sale. The
27 notice shall be given by publication once per week for three consecutive
28 weeks in some newspaper, authorized to publish legal notices, of the
29 county where the real estate is situated. The date set for the sale shall not
30 be earlier than 10 days and not later than 30 days after the date of the last
31 publication of notice. *If the sale is being held as an auction that takes*
32 *place over more than one day, the first day that the auction is open for*
33 *bidding shall not be earlier than 10 days and not later than 30 days after*
34 *the date of the last publication notice.* If the tracts to be sold are
35 contiguous and lie in more than one county, notice may be given and the
36 sale made in either of such counties.

37 Sec. 5. K.S.A. 59-709 and 59-2243 and K.S.A. 2023 Supp. 59-1507b
38 and 59-2308 are hereby repealed.

39 Sec. 6. This act shall take effect and be in force from and after its
40 publication in the statute book.