

# JUDICIAL PROCEDURE, PROBATE

## CHAPTER 228

S. B. No. 75  
(Garaas, Longmire)

### DECEDENT'S ESTATE

#### AN ACT

To create and enact section 30-13-05.1, and to amend and reenact sections 30-21-01 and 30-21-03, and subdivisions a, b, c, and d of subsection 2 of section 56-01-04 of the North Dakota Century Code, relating to the administration and distribution of decedent's estate.

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

§ 1.) Section 30-13-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**30-13-05.1. Easements Authorized.)** Whenever it is in the best interest of the estate or those interested therein the personal representative may, either with or without consideration, dedicate or convey an easement over any real property of the estate to the state or any agency or instrumentality thereof, or to any person, firm, association or public or private corporation, or the United States or any agency or instrumentality thereof. Such easement shall be subject to approval by the county court after notice and hearing have been given to all persons interested in the estate in the manner provided in chapters 30-02 and 30-03. Such easement and a certified copy of the court order approving the same shall be recorded in the office of the register of deeds of the county in which the land is situated.

§ 2. **Amendment.)** Section 30-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**30-21-01. Petition for Legacy or Share—Hearing.)** At any time after the hearing on claims presented against an estate, any heir, devisee, or legatee may present his petition to the court for the legacy or share of the estate to which he is entitled, to be given to him upon his giving bond for the payment of his proportion of the debts of the estate, if any. In such case, a hearing must be held upon the petition after the citation of all parties interested.

**§ 3. Amendment.)** Section 30-21-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**30-21-03. Petition May Be Allowed—Bond Required—Partition—Costs.)** If at a hearing upon a petition for the payment of a legacy or share of an estate, it appears that the share of the party applying may be allowed to him without loss to the creditors of the estate, the court must make an order in conformity with the prayer of the applicant, requiring:

1. Each heir, legatee, or devisee obtaining such order, before receiving his share or any portion thereof, to execute and deliver to the executor or administrator a bond in such sum as shall be designated by the county judge, with sureties to be approved by the judge, payable to the executor or administrator, and conditioned for the payment, whenever required, of his proportion of the debts due from the estate, not exceeding the value or amount of the legacy or portion of the estate to which he is entitled;
2. The executor or administrator to deliver to the heir, legatee, or devisee the whole portion of the estate to which he may be entitled, or only a part thereof, designating it.

The requirement of a bond imposed by subsection 1 of this section may be dispensed with at the discretion of the court, whenever there are no debts or taxes due from the estate. If in the execution of the order a partition between two or more of the parties interested is necessary, it must be made in the manner prescribed in this chapter. The costs of such proceeding shall be paid by the applicant, or if there is more than one, they shall be apportioned equally among all of the applicants.

**§ 4. Amendment.)** Subdivisions a, b, c and d of subsection 2 of section 56-01-04 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- a. No issue, and the estate does not exceed in value the sum of fifty thousand dollars, all the estate goes to the surviving husband or wife;
- b. No issue, and the estate exceeds in value the sum of fifty thousand dollars, all of the estate in excess in value of such sum goes, one-half to the surviving husband or wife, and the other one-half to the decedent's father and mother in equal shares, and, if either is dead, to the survivor;
- c. No issue, and both the father and mother are dead, and the estate does not exceed one hundred thousand dollars,

the whole thereof goes to the surviving husband or wife;

- d. No issue, and both the father and mother are dead, and the estate exceeds in value the sum of one hundred thousand dollars, all of the estate in excess of such sum in value goes, one-half thereof to the surviving husband or wife, and if the decedent leaves brothers or sisters or children of deceased brothers or sisters, then the other one-half thereof goes in equal shares to the brothers or sisters of decedent and to the children of any deceased brother or sister by right of representation;

Approved March 3, 1961.

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## CHAPTER 229

S. B. No. 248  
(Gronvold, Ringsak)

### DEBTS, ORDER OF PAYMENT

#### AN ACT

To amend and reenact section 30-18-18 of the North Dakota Century Code, relating to debts and the order of their payment.

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

§ 1. **Amendment.**) Section 30-18-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**30-18-18. Debts, Order of Payment.)** The acknowledged debts of an estate and charges must be paid in the following order:

1. The necessary expenses of the administration;
2. The expenses of the last sickness and funeral;
3. Allowances made to the family in excess of the exempt property;
4. Claims in favor of the county for poor relief;
5. Claims, whether secured or unsecured, in favor of the state under the Old Age Assistance Act or Aid to the Permanently and Totally Disabled Act, after payments of the expenses authorized to be paid as provided in sections 50-07-34 and 50-10A-31;
6. Debts having preference by the laws of the United States;
7. Personal property taxes which are not liens on property belonging to the estate;
8. All other demands against the estate.

Approved March 3, 1961.