

HOUSE FLOOR SUBSTITUTE FOR
HOUSE BILL 879

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO PROBATE; REQUIRING A PERSONAL REPRESENTATIVE TO
MAKE REPORTS TO INTERESTED PARTIES AND COMPLETE ADMINISTRATION
OF INTESTATE SUCCESSION WITHIN THREE YEARS; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 45-3-703 NMSA 1978 (being Laws 1975,
Chapter 257, Section 3-703) is amended to read:

"45-3-703. GENERAL DUTIES--RELATION AND LIABILITY TO
PERSONS INTERESTED IN ESTATE--STANDING TO SUE. --

A. A personal representative is under a duty to
settle and distribute the estate of a decedent in accordance
with the terms of any probated and effective will and the
Uniform Probate Code and as expeditiously and efficiently as is
consistent with the best interests of the estate subject to

1 Subsection F of this section. He shall use the authority
2 conferred upon him by the Uniform Probate Code, the terms of
3 the will, if any, and any order in proceedings to which he is
4 party for the best interests of successors to the estate.

5 B. A personal representative shall not be
6 surcharged for acts of administration or distribution if the
7 conduct in question was authorized at the time. Subject to
8 other obligations of administration, an informally probated
9 will is authority to administer and distribute the estate
10 according to its terms.

11 C. An order of appointment of a personal
12 representative, whether issued in informal or formal
13 proceedings, is authority to distribute apparently intestate
14 assets to the heirs of the decedent if, at the time of
15 distribution, the personal representative is not aware of:

- 16 (1) a pending testacy proceeding;
17 (2) a proceeding to vacate an order entered in
18 an earlier testacy proceeding;
19 (3) a formal proceeding questioning his
20 appointment or fitness to continue; or
21 (4) a supervised administration proceeding.

22 D. Nothing in this section affects the duty of the
23 personal representative to administer and distribute the estate
24 in accordance with the rights of claimants, the surviving
25 spouse, any minor and dependent children and any pretermitted

1 child of the decedent.

2 E. Except as to proceedings which do not survive
 3 the death of the decedent, a personal representative of a
 4 decedent domiciled in New Mexico at his death has the same
 5 standing to sue and be sued in the courts of New Mexico and the
 6 courts of any other jurisdiction as his decedent had
 7 immediately prior to death.

8 F. A personal representative shall complete the
 9 disposition of the management and settlement of a decedent's
 10 estate and give a final report to all interested parties no
 11 later than three years after the commencement of the
 12 administration of the estate by the personal representative.
 13 The probate or district court may extend the three-year period
 14 upon a showing of good cause by the personal representative.
 15 The final report shall include an inventory of all property
 16 devised by the estate and its devisees, as well as any
 17 remuneration received by the personal representative pursuant
 18 to the administration of the estate."

19 Section 2. A new section of the Uniform Probate Code,
 20 Section 45-3-705.1 NMSA 1978, is enacted to read:

21 "45-3-705.1 [NEW MATERIAL] DUTY OF PERSONAL
 22 REPRESENTATIVE--PERIODIC REPORT.--At least once every three
 23 months, a personal representative shall give a report to all
 24 interested parties concerning the status of the administration
 25 of the decedent's estate. For purposes of this section,

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underscored material = new
 [bracketed material] = delete

1 "interested party" means a devisee, heir or relation with an
2 intestate claim known to the personal representative. Other
3 persons must petition the probate or district court to be
4 declared an interested party. "

5 Section 3. EMERGENCY.--It is necessary for the public
6 peace, health and safety that this act take effect immediately.

underscored material = new
[bracketed material] = delete