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SENATE BILL 381

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO PROBATE; CLARIFYING WHO IS ENTITLED TO A PERSONAL PROPERTY ALLOWANCE.

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

Section 1. Section 45-2-403 NMSA 1978 (being Laws 1993, Chapter 174, Section 21, as amended) is amended to read:

"45-2-403. PERSONAL PROPERTY ALLOWANCE. --In addition to the family allowance, the decedent's surviving spouse is entitled from the estate to a value not exceeding fifteen thousand dollars (\$15,000) in excess of any security interests therein in household furniture, automobiles, furnishings, appliances and personal effects. If there is no surviving spouse, the decedent's children who are devisees under the will or, if there is no will, who are intestate heirs, are entitled jointly to the same value. If encumbered chattels

underscored material = new
[bracketed material] = delete

underscored material = new
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1 are selected and the value in excess of security interests
2 plus that of other exempt property is less than fifteen
3 thousand dollars (\$15,000) or if there is not fifteen thousand
4 dollars (\$15,000) worth of exempt property in the estate, the
5 spouse or children are entitled to other assets of the estate,
6 if any, to the extent necessary to make up the fifteen
7 thousand dollar (\$15,000) value. Rights to specific property
8 for the family allowance and assets needed to make up a
9 deficiency in the property have priority over all claims
10 against the estate, but the right to any assets to make up a
11 deficiency of exempt property abates as necessary to permit
12 earlier payment of the family allowance. These rights are in
13 addition to any benefit or share passing to the surviving
14 spouse or children by intestate succession or by the
15 decedent's will, unless otherwise provided by the decedent in
16 the will or other governing instrument. "