

2013 -- H 5370

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LC01085
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO PROBATE PRACTICE AND PROCEDURE - CLAIMS AGAINST
DECEDENTS' ESTATES

Introduced By: Representatives Marcello, Blazejewski, Shekarchi, Lima, and Lally

Date Introduced: February 12, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 33-11-5.1 of the General Laws in Chapter 33-11 entitled "Claims
2 Against Decedents' Estates" is hereby amended to read as follows:

3 **33-11-5.1. Duty to notify known or reasonably ascertainable creditors.** -- (a) If the
4 identity of a creditor of the decedent's is known to or reasonably ascertainable by the personal
5 representative, the personal representative shall, within a reasonable period of time after
6 qualification, take such steps as are reasonably necessary to ensure that such creditor receives or
7 has received actual notice of the commencement of the decedent's estate. The sending of a notice
8 in the form contained in subsection (b) by the personal representative to the creditor at his/her or
9 its last known address, by first class mail, postage prepaid, shall be deemed a means, but not the
10 exclusive means, of satisfying the requirements of this section. The personal representative is not
11 liable to a creditor or to a successor personal representative of the decedent for giving or failing to
12 give notice under this section. (b) A personal representative shall be conclusively presumed to
13 have complied with this section by sending a written notice in substantially the following form:

14 STATE OF RHODE ISLAND PROBATE COURT OF
15 COUNTY OF _____ THE _____
16 ESTATE OF (NAME OR ESTATE) (NO.) _____

17 NOTICE OF COMMENCEMENT OF PROBATE

18 To: (Name of Creditor)

1 (last known address of creditor)

2 Notice is hereby given by (name of personal representative) that a probate estate has been
3 commenced for (name of decedent) in the Probate Court of the (name of municipality, address of
4 court) docket no. _____, said (name of fiduciary) having been qualified on (date of
5 qualification).

6 A creditor must present a written statement of the claim indicating its basis, the amount
7 claimed, the name and address of the claimant, and the name and address of the claimant's
8 attorney (if any) within six (6) months after qualification. Claims should be mailed to the personal
9 representative or attorney named below and filed with the clerk of the probate court.

10 _____
11 Name and address of

12 Estate Personal Representative or
13 Attorney

14 _____
15 Date

16 [\(c\) In all cases where the decedent was fifty-five \(55\) years or older at the time of death,](#)
17 [the personal representatives shall give actual notice required by this section to the executive](#)
18 [office of health and human services in accordance with section 40-8-15.](#)

19 SECTION 2. Section 33-22-3 of the General Laws in Chapter 33-22 entitled "Practice in
20 Probate Courts" is hereby amended to read as follows:

21 **33-22-3. Notice given by petitioner on filing of petition and hearing.** -- In addition to
22 the notice prescribed by section 33-7-9, and to notice by publication in the manner as prescribed
23 by section 33-22-11, the petitioner or his or her attorney shall, at least ten (10) days before the
24 date set for hearing on the petition, send or cause to be sent by mail, postage prepaid, addressed to
25 each person whose name and post office address is by section 33-22-2(3) required to be set forth
26 in the petition, as the names and addresses are set forth therein or as then known to the petitioner,
27 ~~and when the decedent was fifty five (55) years or older to the executive office of health and~~
28 ~~human services and in accordance with section 40-8-15,~~ notice of the filing, the nature of the
29 petition, and of the time and place set for hearing on the petition, or in lieu thereof a copy of the
30 newspaper notice published pursuant to the provisions of section 33-22-11; provided, however,
31 that in the case of any person entitled to notice hereunder whose post office address is outside the
32 continental limits of the United States this notice shall be sent at least three (3) weeks before the
33 date set for the hearing; and provided further that the petitioner or his or her attorney shall not be
34 required to send this notice to any person sui juris who shall at, or prior to, the hearing waive
35 notice of its pendency in writing either on the petition or by instrument separately filed. The

1 petitioner or his or her attorney shall at or prior to the hearing file or cause to be filed an affidavit
2 that the notice was given, setting forth the names and post office addresses of the persons to
3 whom the notice was sent and the date of mailing of the notice, together with a copy of the notice.

4 SECTION 3. This act shall take effect upon passage and shall apply to all pending and
5 future petitions.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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1 This act would require that when a decedent is fifty-five (55) years or older that notice be
2 sent to the executive office of health and human services in accordance with section 40-8-15.

3 This act would take effect upon passage and would apply to all pending and future
4 petitions.

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