

appearance has been made shall appear at the time and place designated in the request. If a party to whom a request for relevant documents has been made fails to furnish the documents to the requesting party within ten days of receipt of the request, the requesting party may make an application to the district court for a determination that the refusal to produce the documents was unreasonable. If a person to whom a request for appearance has been made fails to appear at the time and place designated in the request, the party making the request for appearance may make an application to the district court for a determination that the failure to appear was unreasonable. If the district court determines that a failure to produce requested documents or to appear was unreasonable, it may assess costs not exceeding \$100 to the requesting party against the refusing party or person.

Sec. 3. LOCAL APPROVAL:

This act takes effect the day after the Ramsey county board complies with Minnesota Statutes, section 645.021, subdivision 3.

Presented to the governor May 16, 1989

Signed by the governor May 17, 1989, 5:05 p.m.

CHAPTER 163—H.F.No. 1151

An act relating to probate; changing procedure for notice to certain creditors; changing certain time limits; amending Minnesota Statutes 1988, sections 524.3-801; 524.3-802; 524.3-803; and 524.3-807.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 524.3-801, is amended to read:

524.3-801 NOTICE TO CREDITORS.

(a) Unless notice has already been given under this section, upon appointment of a general personal representative in informal proceedings or upon the filing of a petition for formal appointment of a general personal representative, notice thereof, in the form prescribed by court rule, shall be given under the direction of the court administrator by publication once a week for two successive weeks in a legal newspaper in the county wherein the proceedings are pending giving the name and address of the general personal representative and notifying creditors of the estate to present their claims within four months after the date of the court administrator's notice which is subsequently published or be forever barred, unless they are entitled to further service of notice under paragraph (b) or (c).

(b)(1) Within three months after: (i) the date of the first publication of the notice; or (ii) the effective date of this section, whichever is later, the personal

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representative may determine, in the personal representative's discretion, that it is or is not advisable to conduct a reasonably diligent search for creditors of the decedent who are either not known or not identified. If the personal representative determines that a reasonably diligent search is advisable, the personal representative shall conduct the search.

(2) If the notice is first published after the effective date of this section, the personal representative shall, within three months after the date of the first publication of the notice, serve a copy of the notice upon each then known and identified creditor in the manner provided in paragraph (c). If notice was first published under the applicable provisions of law under the direction of the court administrator before the effective date of this section and if a personal representative is empowered to act at any time after the effective date of this section, the personal representative shall, within three months after the effective date of this section, serve upon the then known and identified creditors in the manner provided in paragraph (c) a copy of the notice as published, together with a supplementary notice requiring each of the creditors to present any claim within one month after the date of the service of the notice or be forever barred.

(3) Under this section, a creditor is "known" if: (i) the personal representative knows that the creditor has asserted a claim that arose during the decedent's life against either the decedent or the decedent's estate; or (ii) the creditor has asserted a claim that arose during the decedent's life and the fact is clearly disclosed in accessible financial records known and available to the personal representative. Under this section, a creditor is "identified" if the personal representative's knowledge of the name and address of the creditor will permit service of notice to be made under paragraph (c).

(c) The personal representative shall serve a copy of any notice and any supplementary notice required by paragraph (b), clause (1) or (2), upon each creditor of the decedent who is then known to the personal representative and identified, except a creditor whose claim has either been presented to the personal representative or paid, either by delivery of a copy of the required notice to the creditor, or by mailing a copy of the notice to the creditor by certified, registered, or ordinary first class mail addressed to the creditor at the creditor's office or place of residence.

Sec. 2. Minnesota Statutes 1988, section 524.3-802, is amended to read:

524.3-802 STATUTES OF LIMITATIONS.

Unless an estate is insolvent the personal representative, with the consent of all successors, may waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid. The running of any statute of limitations measured from some other event than death ~~and advertisement for claims or notice given under section 1~~ against a decedent is suspended during the 12 months following the decedent's death but resumes thereafter as to claims not barred pursuant to the sections which follow. For

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purposes of any statute of limitations, the proper presentation of a claim under section 524.3-804 is equivalent to commencement of a proceeding on the claim.

Sec. 3. Minnesota Statutes 1988, section 524.3-803, is amended to read:

524.3-803 LIMITATIONS ON PRESENTATION OF CLAIMS.

(a) All claims as defined in section 524.1-201 (4) against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) in the case of a creditor who is only entitled, under the United States Constitution and under the Minnesota Constitution, to notice by publication under section 1, within four months after the date of the court administrator's notice to creditors which is subsequently published pursuant to section ~~524.3-804~~ 1;

(2) in the case of a creditor who was served with notice under section 1, paragraph (c), within the later to expire of four months after the date of the first publication of notice to creditors or one month after the service;

(3) within ~~three years~~ the later to expire of one year after the decedent's death, if or one year after the effective date of this section, whether or not notice to creditors has ~~not~~ been published or served under section 1, provided, however, that in the case of a decedent who died before the effective date of this section, no claim which was then barred by any provision of law may be deemed to have been revived by the amendment of this section.

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) a claim based on a contract with the personal representative, within four months after performance by the personal representative is due;

(2) any other claim, within four months after it arises.

(c) Nothing in this section affects or prevents:

(1) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate; or

(2) any proceeding to establish liability of the decedent or the personal representative for which there is protection by liability insurance, to the limits of the insurance protection only;

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(3) the presentment and payment at any time within one year after the decedent's death of any claim arising before the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred under this section; or

(4) the presentment and payment at any time before a petition is filed in compliance with sections 524.3-1001 or 524.3-1002 or a closing statement is filed under section 524.3-1003, of:

(i) any claim arising after the death of the decedent that is referred to in section 524.3-715 (18) although the same may be otherwise barred hereunder;

(ii) any other claim, including claims subject to clause (3), which would otherwise be barred hereunder, upon allowance by the court upon petition of the personal representative or the claimant for cause shown on notice and hearing as the court may direct.

Sec. 4. Minnesota Statutes 1988, section 524.3-807, is amended to read:

524.3-807 PAYMENT OF CLAIMS.

(a) Upon the expiration of ~~four months from the date of the first publication of the notice to creditors~~ the earliest of the time limitations provided in section 3 for the presentation of claims, the personal representative shall proceed to pay the claims allowed against the estate in the order of priority prescribed, after making provision for family maintenance and statutory allowances, for claims already presented which have not yet been allowed or whose allowance has been appealed, and for unbarred claims which may yet be presented, including costs and expenses of administration. By petition to the court in a proceeding for the purpose, or by appropriate motion if the administration is supervised, a claimant whose claim has been allowed but not paid as provided herein may secure an order directing the personal representative to pay the claim to the extent that funds of the estate are available for the payment.

(b) The personal representative at any time may pay any just claim which has not been barred, with or without formal presentation, but the personal representative is personally liable to any other claimant whose claim is allowed and who is injured by such payment if

(1) the payment was made before the expiration of the time limit stated in subsection (a) and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or

(2) the payment was made, due to the negligence or willful fault of the personal representative, in such manner as to deprive the injured claimant of the claimant's priority.

Sec. 5. EFFECTIVE DATE.

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This act is effective 30 days after final enactment.

Presented to the governor May 16, 1989

Signed by the governor May 17, 1989, 6:18 p.m.

CHAPTER 164—H.F.No. 1339

An act relating to agricultural societies; clarifying that society board members and officers are not public officials, and that elected officials may serve on the board or as officers; amending Minnesota Statutes 1988, section 38.04.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 38.04, is amended to read:

38.04 ANNUAL MEETINGS; REPORTS.

Every county agricultural society shall hold an annual meeting for the election of officers and the transaction of other business on or before the third Tuesday in November; ~~each year, at which time its~~ Service on the county agricultural society board or as an officer of the board is not a public office. Elected officials of the state or its political subdivisions may serve on the board or be elected as officers.

At the annual meeting, the society's secretary shall make a report of its proceedings for the preceding year; this report shall contain a statement of all transactions at its fairs, the numbers of entries, the amount and source of all money received, and the amount paid out for premiums and other purposes, and show in detail its entire receipts and expenditures during the year. The report must contain a separate accounting of any income received from the operation of horse racing on which pari-mutuel betting is conducted, and of the disposition of that income.

The treasurer shall make a comprehensive report of the funds received, paid out, and on hand, and upon whose order paid. Each secretary shall cause a certified copy of the annual report to be filed with the county recorder of the county and the commissioner of agriculture on or before the first day of November each year.

Presented to the governor May 16, 1989

Signed by the governor May 19, 1989, 11:04 a.m.

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