

**524.3-108 PROBATE, TESTACY AND APPOINTMENT PROCEEDINGS; ULTIMATE TIME LIMIT.**

No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment, may be commenced more than three years after the decedent's death, except (1) if a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding; (2) appropriate probate, appointment or testacy proceedings may be maintained in relation to the estate of an absentee, or disappeared or missing person, at any time within three years after the death of the absentee or disappeared or missing person is established; and (3) a proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful, may be commenced within the later of 12 months from the informal probate or three years from the decedent's death. These limitations do not apply to proceedings to construe probated wills, determine heirs of an intestate, or proceedings to determine descent. In cases under (1) or (2) above, the date on which a testacy or appointment proceeding is properly commenced shall be deemed to be the date of the decedent's death for purposes of other limitations provisions of this chapter which relate to the date of death. Nothing herein contained prohibits the formal appointment of a special administrator at any time for the purposes of reducing assets to possession, administering the same under direction of the court, or making distribution of any residue to the heirs or distributees determined to be entitled thereto pursuant to a descent proceeding under section 525.31 or an exempt summary proceeding under section 524.3-1203, even though the three-year period above referred to has expired.

**History:** 1974 c 442 art 3 s 524.3-108; 1975 c 347 s 27; 1977 c 440 s 3; 1996 c 305 art 1 s 112