

HOUSE BILL No. 1448

DIGEST OF INTRODUCED BILL

Citations Affected: IC 29-1-7-7; IC 29-1-14-1.

Synopsis: Claim deadlines. Removes provisions barring certain claims filed against a decedent's estate more than nine months after the date of the decedent's death.

Effective: January 1, 2013 (retroactive).

GiaQuinta

January 22, 2013, read first time and referred to Committee on Judiciary.

C
o
p
y



First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

C
o
p
y

HOUSE BILL No. 1448



A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 29-1-7-7, AS AMENDED BY P.L.143-2009,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2013 (RETROACTIVE)]: Sec. 7. (a) As soon as letters
4 testamentary or of administration, general or special, supervised or
5 unsupervised, have been issued, the clerk of the court shall publish
6 notice of the estate administration.

7 (b) The notice required under subsection (a) shall be published in
8 a newspaper of general circulation, printed in the English language and
9 published in the county where the court is located, once each week for
10 two (2) consecutive weeks. A copy of the notice, with proof of
11 publication, shall be filed with the clerk of the court as a part of the
12 administration of the estate within thirty (30) days after the publication.
13 If no newspaper is published in the county, the notice shall be
14 published in a newspaper published in an adjacent county.

15 (c) The notice required under subsection (a) shall be served by first
16 class postage prepaid mail on each heir, devisee, legatee, and known
17 creditor whose name and address is set forth in the petition for probate



1 or letters, except as otherwise ordered by the court. The personal
2 representative shall furnish sufficient copies of the notice, prepared for
3 mailing, and the clerk of the court shall mail the notice upon the
4 issuance of letters.

5 (d) The personal representative or the personal representative's
6 agent shall serve notice on each creditor of the decedent:

7 (1) whose name is not set forth in the petition for probate or
8 letters under subsection (c);

9 (2) who is known or reasonably ascertainable within one (1)
10 month after the first publication of notice under subsection (a);
11 and

12 (3) whose claim has not been paid or settled by the personal
13 representative.

14 The notice may be served by mail or any other means reasonably
15 calculated to ensure actual receipt of the notice by a creditor.

16 (e) Notice under subsection (d) shall be served within one (1) month
17 after the first publication of notice under subsection (a) or as soon as
18 possible after the elapse of one (1) month. If the personal representative
19 or the personal representative's agent fails to give notice to a known or
20 reasonably ascertainable creditor of the decedent under subsection (d)
21 within one (1) month after the first publication of notice under
22 subsection (a), the period during which the creditor may submit a claim
23 against the estate includes an additional period ending two (2) months
24 after the date notice is given to the creditor under subsection (d).
25 ~~However, a claim filed under IC 29-1-14-1(a) more than nine (9)~~
26 ~~months after the death of the decedent is barred.~~

27 (f) A schedule of creditors that received notice under subsection (d)
28 shall be delivered to the clerk of the court as soon as possible after
29 notice is given.

30 (g) The giving of notice to a creditor or the listing of a creditor on
31 the schedule delivered to the clerk of the court does not constitute an
32 admission by the personal representative that the creditor has an
33 allowable claim against the estate.

34 (h) If any person entitled to receive notice under this section is
35 under a legal disability, the notice may be served upon or waived by the
36 person's natural or legal guardian or by the person who has care and
37 custody of the person.

38 (i) The notice shall read substantially as follows:

39 NOTICE OF ADMINISTRATION

40 In the _____ Court of _____ County, Indiana.
41 Notice is hereby given that _____ was, on the ____ day of
42 _____, 20 __, appointed personal representative of the estate of

C
o
p
y



1 _____, deceased, who died on the ___ day of _____, 20 __.
 2 All persons who have claims against this estate, whether or not now
 3 due, must file the claim in the office of the clerk of this court within
 4 three (3) months from the date of the first publication of this notice, ~~or~~
 5 ~~within nine (9) months after the decedent's death, whichever is earlier;~~
 6 or the claims will be forever barred.

7 Dated at _____, Indiana, this ___ day of _____, 20 __.

8
 9 _____
 10 CLERK OF THE _____ COURT
 11 FOR _____ COUNTY, INDIANA

12 SECTION 2. IC 29-1-14-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2013 (RETROACTIVE)]:
 14 Sec. 1. (a) Except as provided in IC 29-1-7-7, all claims against a
 15 decedent's estate, other than expenses of administration and claims of
 16 the United States, the state, or a subdivision of the state, whether due
 17 or to become due, absolute or contingent, liquidated or unliquidated,
 18 founded on contract or otherwise, shall be forever barred against the
 19 estate, the personal representative, the heirs, devisees, and legatees of
 20 the decedent, unless filed with the court in which such estate is being
 administered within:

- 21 (1) three (3) months after the date of the first published notice to
- 22 creditors; or
- 23 (2) three (3) months after the court has revoked probate of a will,
- 24 in accordance with IC 29-1-7-21, if the claimant was named as a
- 25 beneficiary in that revoked will;

26 whichever is later.

27 (b) No claim shall be allowed which was barred by any statute of
 28 limitations at the time of decedent's death.

29 (c) No claim shall be barred by the statute of limitations which was
 30 not barred at the time of the decedent's death, if the claim shall be filed
 31 within:

- 32 (1) three (3) months after the date of the first published notice to
- 33 creditors; or
- 34 (2) three (3) months after the court has revoked probate of a will,
- 35 in accordance with IC 29-1-7-21, if the claimant was named as a
- 36 beneficiary in that revoked will;

37 whichever is later.

38 ~~(d) All claims barrable under subsection (a) shall be barred if not~~
 39 ~~filed within nine (9) months after the death of the decedent.~~

40 ~~(e)~~ (d) Nothing in this section shall affect or prevent any action or
 41 proceeding to enforce any mortgage, pledge, or other lien upon
 42 property of the estate.

C
o
p
y



1 ~~(f)~~ (e) Nothing in this section shall affect or prevent the enforcement
2 of a claim for injury to person or damage to property arising out of
3 negligence against the estate of a deceased tortfeasor within the period
4 of the statute of limitations provided for the tort action. A tort claim
5 against the estate of the tortfeasor may be opened or reopened and suit
6 filed against the special representative of the estate within the period
7 of the statute of limitations of the tort. Any recovery against the tort
8 feator's estate shall not affect any interest in the assets of the estate
9 unless the suit was filed within the time allowed for filing claims
10 against the estate. The rules of pleading and procedure in such cases
11 shall be the same as apply in ordinary civil actions.

12 SECTION 3. [EFFECTIVE JANUARY 1, 2013 (RETROACTIVE)]

13 **(a) IC 29-1-7-7 and IC 29-1-14-1, both as amended by this act,**
14 **apply to the estate of an individual whose death occurs after**
15 **December 31, 2012.**

16 **(b) This section expires January 1, 2014.**

17 SECTION 4. **An emergency is declared for this act.**

C
o
p
y

