OKLAHOMA STATUTES
TITLE 58. PROBATE PROCEDURE

§58-1. Probate jurisdiction and venue of district court.

A. The district court has probate jurisdiction, and the judge thereof power, which must be exercised in the cases and in the manner prescribed by statute:

1. To open and receive proof of last wills and testaments, and to admit them to proof and to revoke the probate thereof, and to allow and record foreign wills;

2. To grant letters testamentary, of administration and of guardianship, and to revoke the same;

3. To appoint appraisers of estates of deceased persons and of minors and incapacitated persons;

4. To compel personal representatives and guardians to render accounts;

5. To order the sale of property of estates, or belonging to minors or to incapacitated persons;

6. To order the payments of debts from estates or guardianships;

7. To order and regulate all distribution of property or estates of deceased persons;

8. To compel the attendance of witnesses and the production of title deeds, papers, and other property of an estate, or of a minor, or incapacitated persons;

9. To exercise all the powers conferred by this chapter or by other law;

10. To make such orders as may be necessary to the exercise of the powers conferred upon it; and

11. To appoint and remove guardians for infants, and for persons insane or who are otherwise incapacitated persons; to compel payment and delivery by them of money or property belonging to their wards, to control their conduct and settle their accounts.

B. The district court which has jurisdiction and venue of the administration of any estate is granted jurisdiction and venue to

cause Oklahoma and federal estate taxes to be equitably apportioned and collected.

C. The district court which has jurisdiction and venue of the administration of any estate is granted unlimited concurrent jurisdiction and venue to hear and determine:

1. In whom the title to any property is vested, whether the property is real, personal, tangible, intangible, or any combination thereof;

2. Rights with respect to such property as to all persons and entities;

3. Whether or not such property is subject to the jurisdiction of the court in the decedent's estate; and

4. Issues relating to trusts or issues involving a guardian or ward that may arise.

D. For proceedings under subsection C of this section, service of notice and process shall be required as in other cases and the provisions of the Oklahoma Pleading Code, Section 2001 et seq. of Title 12 of the Oklahoma Statutes, shall be followed.

R.L. 1910, § 6189. Amended by Laws 1953, p. 232, § 1; Laws 1963, c. 98, § 1, emerg. eff. May 27, 1963; Laws 1989, c. 276, § 1, eff. Nov. 1, 1989; Laws 1995, c. 253, § 6, eff. Nov. 1, 1995; Laws 1997, c. 224, § 2, eff. Nov. 1, 1997; Laws 2001, c. 58, § 1, eff. Nov. 1, 2001.

§58-5. Venue of probate acts.

Wills must be proved, and letters testamentary or of administration granted in the following applicable situations:

1. In the county of which the decedent was a resident at the time of his death, regardless where he died.

2. In the county in which the decedent died, leaving an estate therein, the deceased not being a resident of this state.

3. In the county in which any part of the estate of the deceased may be, where the decedent died out of this state, and the decedent was not a resident of this state at the time of his death.

4. In the county in which any part of the estate may be and the decedent was not a resident of this state, but died within it, and did not leave an estate in the county in which he died.

5. In all other cases, in the county where application for letters is first made.

Amended by Laws 1982, c. 176, § 1, emerg. eff. April 16, 1982.

§58-6. Venue in certain cases.

When the estate of the decedent is in more than one county, he having died out of the state, and not having been a resident thereof at the time of his death, or being such nonresident and dying within the state, and not leaving estate in the county where he died, the district court of that county in which application is first made for

letters testamentary or of administration, has exclusive jurisdiction of the settlement of the estate.
R.L.1910, § 6194.

§58-7. Jurisdiction coextensive with state.

The district court of the county in which application is first made for letters testamentary or of administration in any of the cases above mentioned, shall have jurisdiction coextensive with the State in the settlement of the estate of the decedent and the sale and distribution of his real estate and excludes the jurisdiction of the district court of every other county.
R.L.1910, § 6195.

§58-8. Transfer of old matters authorized.

When it is made to appear that any probate matter pending in any court of this state which, by acts of Congress and the Constitution, was transferred from the courts of the Territory of Oklahoma and the United States courts in the Indian Territory to the courts of this state, is not in the county where the venue of such suit, matter or proceeding would lie if arising after the admission of this state into the Union, the court where such suit, matter or proceeding is pending shall, upon the application of the guardian, executor or administrator, or any other person having a substantial interest therein, or upon its own motion, when a proper showing has been made for a removal, within twenty (20) days after application is made therefor, make an order transferring such suit, matter or proceeding to the county where the venue would properly lie if such suit, matter or proceeding had arisen since the admission of this state into the Union, by transmitting to such county the original papers, together with certified copies of all orders and judgments, upon the payment of all accrued costs: Provided, that where any minor is the owner of an estate situate in a county or in counties other than that of his domicile and a guardian or curator has heretofore been appointed for such minor or his estate in any such county other than that of the domicile of such minor, such suit, matter or proceedings shall be transferred in the manner and upon the conditions herein provided, to the county of the domicile of such minor; And provided, further, that such original papers, together with such certified copies of all orders and judgments, shall be filed in the court to which such matter is removed, and the same shall proceed as if ordinarily filed therein, without further service of notice.
R.L.1910, § 6196.

§58-9. Transfers already made legalized.

All transfers of records, suits or proceedings of a probate nature which, by Acts of Congress and the Constitution, were transferred from the Territory of Oklahoma and the United States

courts in the Indian Territory to the courts of this state, and thereafter transferred to another county, where such county would have been the proper venue had such suit, matter or proceeding, been commenced after the admission of this state into the Union, are hereby legalized; and no sale or other proceeding by the court to which such suit, matter or proceeding has been transferred shall be void because of such transfer.
R.L.1910, § 6197.

§58-10. Transfer to county of domicile of minor or ward.

In any case where it is shown to the court that the domicile of a minor or ward has been changed from the county where the guardianship is pending to another county in this state, the guardianship may, upon application verified by oath, after notice has been given to the next of kin of such minor or ward and upon good cause shown, be removed to such other county, which would be the proper venue, in the manner and upon the conditions prescribed in the second preceding section for the transfer of suits, matters or proceedings if the court finds that the domicile of the minor or ward has been changed in good faith and that such transfer would be for the best interest of such minor or ward.
R.L.1910, § 6198.

§58-11. Personal representative defined.

As used in this title, "personal representative" includes executor, administrator, administrator with will annexed, conservator, guardian and persons who perform substantially the same function under the law governing their status and includes a successor personal representative appointed to succeed a previously appointed personal representative.
Laws 1980, c. 310, § 1, eff. Oct. 1, 1980.

§58-21. Custodian of will to deliver same to district court.

Every custodian of a will, within thirty days after receipt of information that the maker thereof is dead, must deliver the same to the district court having jurisdiction of the estate, or to the executor named therein. A failure to comply with the provisions of this section makes the person failing responsible for all damages sustained by any one injured thereby.
R.L.1910, § 6199.

§58-22. Who may petition court for proof of will.

Any executor, devisee or legatee named in a will, or any other person interested in the estate, may at any time after the death of the testator, petition the court having jurisdiction to have the will proved, whether the same be in writing, in his possession or not, or

is lost or destroyed, or beyond the jurisdiction of the state, or a nuncupative will.
R.L.1910, § 6200.

§58-23. Requisites of petition for probate.

A petition for the probate of a will must show:

1. the jurisdictional facts;

2. whether the person named as executor consents to act, or renounces his right to the letters testamentary;

3. the names, ages, and residence of the heirs, legatees, and devisees of the decedent, so far as known to the petitioner;

4. the probable value and character of the property of the estate;

5. the name of the person for whom letters testamentary are prayed.

The petition for the probate of a will must be in writing and signed by the applicant or his counsel.

No defect of form, or in the statement of jurisdictional facts actually existing, shall make void the probate of a will.
R.L.1910, § 6201; Laws 1963, c. 102, § 1, emerg. eff. May 27, 1963.

§58-24. Court may compel production of will by one having possession.

If it be alleged in the petition that the will is in the possession of a third person and the court is satisfied that the allegation is correct, an order must be issued and served upon the person having possession of the will, requiring him to produce it in the court at the time named in the order. If he has possession of the will and neglects or refuses to produce it in obedience to the order, he may by warrant of the court be committed to the jail of the county, and kept in close confinement until he produces it.
R.L.1910, § 6202.

§58-24.1. Preservation of original will - Removal from custody.

Upon the filing of a petition for the probate of a will and upon the production of the will, the clerk of the district court shall safely preserve the original will and shall not permit it to be removed from the county courthouse building until after a photographic, photostatic or certified copy thereof has been filed in the court; provided, however, that after such copy is prepared and filed, the judge of the district court may, for good cause shown and upon written order filed with the court clerk, permit the original will to be removed from the courthouse building.
Laws 1965, c. 231, § 1.

§58-25. Hearing - Notice, how given.

When a petition for probate of a will is filed, the court must fix a day for hearing the petition, not less than ten (10) nor more than thirty (30) days from the date of filing of the petition, and if the names and addresses of all heirs, legatees, and devisees of the testator are known to the petitioner and are set out in the petition, the court shall cause notice of such hearing to be given as provided in Section 34 of this title, by mailing copies of the notice to all heirs, legatees, and devisees, other than devisees and legatees whose devises and bequests are conditioned upon another named person's predeceasing the testator in accordance with terms stated in the will and such named person did not predecease the testator in accordance with terms stated in the will, postage prepaid, at their last-known place of residence not less than ten (10) days prior to the date of the hearing; provided, however, if the name or address of one or more heirs, legatees, or devisees of the testator is not known to the petitioner, or if one or more heirs, legatees, or devisees of the testator are alleged to have survived the testator but died prior to the filing of the petition and the petitioner alleges that he knows of no personal representative for the decedents' estates, notice of the hearing of the petition shall be given by mailing, as above provided, and, in addition thereto, the notice shall be published in one issue of a newspaper, and in such case the hearing shall not be less than ten (10) days from the date of publication of the notice. For purposes of this section, if a legatee or devisee is the trustee of an express trust or testamentary trust, notice need be given only to the trustee and not to the beneficiaries of the trust unless the beneficiaries are otherwise entitled to notice as heirs or as legatees or devisees of property not devised or bequeathed to the trust.

R.L. 1910, § 6203; Laws 1953, p. 232, § 2; Laws 1963, c. 99, § 1, emerg. eff. May 27, 1963; Laws 1967, c. 178, § 1, emerg. eff. May 1, 1967; Laws 1969, c. 302, § 1, eff. Jan. 1, 1970; Laws 1970, c. 218, § 1, emerg. eff. April 15, 1970; Laws 1993, c. 345, § 5, eff. Sept. 1, 1993.

§58-26. Heirs, legatees, devisees and executors to be given notice by mail.

Written or printed copies of the notice of the time appointed for the probate of the will, must be addressed to the heirs, legatees and devisees of the testator, at their places of residence, if known to the petitioner, and deposited in the post office, with the postage thereon prepaid by the petitioner, at least ten (10) days before the hearing; the notice must be issued by the judge over the seal of the court. Proof of the mailing of the notice must be made at the hearing; the same notice and proof of service thereof on the person named as executor must be made if he be not the petitioner; also on

any person named as coexecutor, not petitioning, if his place of residence be known.
R.L.1910, § 6204; Laws 1953, p. 233, § 3.

§58-27. Powers of judge at chambers.
The judge of the district court may, at any time, receive petitions for the probate of wills, make and issue all necessary orders and writs to enforce the production of wills and the attendance of witnesses, hear petitions, trials of issues, admit wills to probate, and do all other things coming under his probate jurisdiction.
R.L.1910, § 6205.

§58-28. Proof of notice - Waiver of notice.
At the time appointed for the hearing, or at the time to which the hearing may have been postponed, the court, unless the parties appear, must require proof that the notice has been given, which being made, the court must hear testimony in proof of the will. If such notice is not proved to have been given, or if from any other cause it is necessary, the hearing may be postponed to a day certain. The appearance in court of parties interested is a waiver of notice.
R.L.1910, § 6206; Laws 1951, p. 161, § 1.

§58-29. Contest before probate - Persons entitled.
Any person interested may appear and contest the will. Devisees, legatees or heirs of an estate may contest the will through their guardians or attorneys appointed by themselves, or by the court for that purpose; but a contest made by an attorney appointed by the court does not bar a contest, after probate, by the party so represented, if commenced within three (3) months from the date the will was admitted to probate; nor does the nonappointment of an attorney by the court of itself invalidate the probate of a will.
R.L.1910, § 6207; Laws 1953, p. 233, § 4; Laws 1967, c. 136, § 2, emerg. eff. April 27, 1967.

§58-30. Admission on testimony of one subscribing witness.
If no person appears to contest the probate of a will, the court may admit it to probate on the testimony or affidavit given after the will has been filed of one of the subscribing witnesses only if satisfied from the testimony or affidavit of such witness that the will was executed in all particulars as required by law, and that the testator was of sound mind at the time of its execution. This section shall not apply to self-proved wills as described in Title 84 O.S., Section 55.
R.L.1910, § 6208; Laws 1976, c. 159, § 2, eff. Oct. 1, 1976.

§58-31. Olographic will, how proved.

An olographic will may be proved in the same manner that other private writings are proved.
R.L.1910, § 6209.

§58-32. Notices required to be published once each week for two or more consecutive weeks - Interval.

When notice is required by this act to be published once each week for two (2) or more consecutive weeks, the interval between the first publication and each successive publication shall be not less than six (6) days.
Laws 1969, c. 302, § 36, eff. Jan. 1, 1970.

§58-33. "Newspaper" defined.

Wherever the term "newspaper" appears herein, it shall mean newspaper as defined by 25 O.S.1961, Sec. 106, as amended by Section 1, Chapter 63, O.S.L.1967 (25 O.S.Supp.1968 Section. 106), and by House Bill No. 1253, First Session, Thirty-second Legislature of the State of Oklahoma.
Laws 1969, c. 302, § 37, eff. Jan. 1, 1970.

§58-34. Mailing and proof of mailing - Persons authorized to make.

When mailing is required by Section 21 et seq. of this title, the mailing shall be made by the court clerk or a deputy court clerk or by the attorney for the party and proof of the mailing shall be by affidavit of the court clerk or deputy court clerk or attorney filed in the case. Any mailing made pursuant to this section after June 22, 1988, which is in compliance with the provisions of this section at the time this act becomes effective, shall be deemed to be in compliance with this section.
Added by Laws 1969, c. 302, § 38, eff. Jan. 1, 1970. Amended by Laws 1988, c. 228, § 1, emerg. eff. June 22, 1988; Laws 1995, c. 286, § 11, eff. July 1, 1995.

§58-41. Proceedings on contest.

If anyone appears to contest the will, he must file written grounds of opposition to the probate thereof, and serve a copy on the petitioner and other residents of the county interested in the estate, any one or more of whom may demur thereto upon any of the grounds of demurrer allowed by law in civil actions. If the demurrer be sustained, the court must allow the contestant a reasonable time, not exceeding ten (10) days, within which to amend his written opposition. If the demurrer is overruled, the petitioner and others interested may jointly or separately answer the contestant's grounds, traversing or otherwise obviating or avoiding the objections. Any issues of fact thus raised, involving:

1. The competency of the decedent to make a last will and testament.

2. The freedom of the decedent at the time of the execution of the will from duress, menace, fraud, or undue influence.

3. The due execution and attestation of the will by the decedent or subscribing witnesses; or,

4. Any other questions substantially affecting the validity of the will must be tried and determined by the court.

On the trial the contestant is plaintiff, and the petitioner is defendant.

R.L. 1910, § 6210.

§58-42. Judgment - Recording.

The district court, after hearing the evidence on petitions for the probate of wills, must set forth its findings of fact and conclusions of law in writing and render a judgment based upon such findings, either admitting, or refusing to admit, the will to probate. The judgment and the will must be recorded where the will is admitted to probate.

R.L.1910, § 6211; Laws 1965, c. 205, § 1.

§58-43. Witnesses on trial of contest - Depositions.

If the will is contested, all the subscribing witnesses who are present in the county, and who are of sound mind, must be produced and examined; and the death, absence or insanity of any of them must be satisfactorily shown to the court. If none of the subscribing witnesses reside in the county, and are not present at the time appointed for proving the will, or although such witnesses reside in the county and are insane or incompetent, and such facts are first made to appear to the court, either in contested or noncontested will cases, the court may admit the testimony of other witnesses to prove the sanity of the testator and the execution of the will and, as evidence of the execution, it may admit proof of the handwriting of the testator and of the subscribing witnesses, or any of them. Provided that when the testimony of any nonresident witness or witnesses residing out of the county wherein any will is sought to be admitted to probate, may be desired, touching the execution of such will, either in contested or noncontested will cases, it shall be lawful for the party seeking to have such will admitted to probate, or resisting the same in the district court, to cause the deposition of such witness to be taken in like manner, as now is or hereafter may be provided in civil cases; and the court may, in its discretion, direct the original of such will to be attached to any commission issued in such case; and the deposition of any such witness taken, certified and returned, according to law, shall be of like force and effect as if his testimony had been heard in the court; provided, that before any such original will shall be suffered to be attached to any such commission, a photostatic or certified copy thereof shall be made and examined, and certified by the judge to be a true copy of

the original, and until the return of such original, such copy shall be retained in the office of the judge, in lieu of such original will; and if such will be admitted to probate, the same may, in case of the loss or destruction of the original thereof, be recorded from such certified copy. Provided, further, that in all cases where wills have heretofore been proved in substantial compliance with the provisions hereof, such proof is hereby validated.
R.L.1910, § 6212; Laws 1931, p. 6, § 1.

§58-44. Recording of testimony - Admissibility.

The testimony of any witness or witnesses admitted at a hearing on a petition to probate a will shall be recorded in one of the following methods:

(a) filing with the court clerk a written summary of the testimony, subscribed and sworn to by each witness in the presence of a judge having jurisdiction of probate matters; or

(b) having the testimony taken down verbatim in shorthand, stenotype, or any other method approved by the court; or

(c) having the testimony recorded verbatim by a sound recorder approved by the court; or

(d) having the testimony recorded verbatim by an official court reporter.

If the testimony is recorded by one of the methods described in subdivisions (b) or (c), the same shall be transcribed, subscribed and sworn to by each witness, and filed with the court clerk. If the testimony is recorded by the method described in subdivision (d), the same shall be transcribed and certified by the official court reporter who took the testimony, and filed with the clerk of the court. Such evidence shall be admissible in any subsequent proceedings concerning the validity of the will, or the sufficiency of the proof if the subscribing witness is dead, or has permanently left this state.
R.L. 1910, § 6213; Laws 1965, c. 340, § 1, emerg. eff. June 28, 1965; Laws 1974, c. 26, § 1, emerg. eff. April 11, 1974; Laws 1992, c. 395, § 4, eff. Sept. 1, 1992.

§58-51. Foreign wills recorded.

Every will duly proved and allowed in any of the territories, or in any of the United States or the District of Columbia, or in any foreign country or state, may be allowed and recorded in the district court of any county in which the testator shall have left any estate, or any estate for which claim is made.
R.L.1910, § 6216.

§58-52. Petition - Hearing - Notice - Summary administration.

A. When a copy of the will and the order or decree admitting same to probate, duly certified, shall be produced by the executor,

or by any other person interested in the will, with a petition for letters, the same must be filed, and the court or judge must appoint a time for the hearing, notice whereof must be given as provided for an original petition for the probate of a will.

B. Regardless of the value of the estate, any will admitted to probate in another jurisdiction may be admitted to probate and administered under the procedures prescribed pursuant to Section 241 or 245 of this title.

R.L. 1910, § 6217. Amended by Laws 1953, p. 233, § 5; Laws 1975, c. 265, § 1, eff. Oct. 1, 1975; Laws 1998, c. 359, § 4, eff. Nov. 1, 1998; Laws 2002, c. 468, § 77, eff. Nov. 1, 2002.

§58-53. Proof required.

If, on the hearing, it appears upon the face of the record that the will has been proved, allowed and admitted to probate in any of the territories, or any state of the United States, the District of Columbia, or in any foreign country or state, and that it was executed according to the law of the place in which the same was made, or in which the testator was at the time domiciled, or in conformity with the laws of this state, it must be admitted to probate, be certified in like manner according to the facts, and recorded, and have the same force and effect as a will first admitted to probate in this state, and letters testamentary or of administration issued thereon.

R.L.1910, § 6218.

§58-61. Causes for contesting will after probate.

When a will has been admitted to probate, any person interested therein may at any time within three (3) months from the date the will was admitted to probate contest the same or the validity of the will. For that purpose he must file in the court in which the will was proved a sworn petition in writing containing his allegations, that evidence discovered since the probate of the will, the material facts of which must be set forth, shows:

1. That a will of a later date than the one proved by the decedent, revoking or changing the will, has been discovered, and is offered; or

2. That some jurisdictional fact was wanting in the probate; or

3. That the testator was not competent, free from duress, menace, fraud, or undue influence when the will allowed was made; or

4. That the will was not duly executed and attested.

R.L.1910, § 6219; Laws 1953, p. 233, § 6; Laws 1967, c. 10, § 1, emerg. eff. Feb. 20, 1967.

§58-62. Citations issued to whom.

Upon filing the petition, a citation must be issued to the executors of the will, or to the administrators with the will

annexed, and to all the legatees and devisees mentioned in the will, and heirs residing in the state, so far as known to the petitioner, or to their guardian, if any of them are minors or adjudicated incompetents, or their personal representatives, if any of them are dead, requiring them to appear before the court on some day therein specified, to show cause why the probate of the will should not be revoked. A copy of such citation shall be mailed to all such persons, nonresidents of the state, whose addresses are known to petitioner, at least ten (10) days before such hearing.
R.L.1910, § 6220; Laws 1953, p. 234, § 7.

§58-63. Petition and notices when another will offered.

If another will be offered by the petition, it must show all that is required in the original case of a petition for the probate of a will, and notice must be given as required before the hearing of proof of any will originally: Provided, that such notice need not be given to any persons upon whom the citation required in the preceding section is to be served.
R.L.1910, § 6221; Laws 1969, c. 302, § 2, eff. Jan. 1, 1970.

§58-64. Hearing and judgment - New will, admitting to probate.

At the time appointed for showing cause, or at any time to which the hearing is postponed, personal service of the citations having been made upon the persons named therein, and the required publication, posting and service of the notices having been made, and all duly proved, the court must proceed to try the issues joined in the same manner as in an original contest of a will. If upon hearing the proofs of the parties the court shall decide that the will is, for any of the reasons alleged, invalid, or that it is not proved to be the last will of the testator, the probate must be annulled and revoked; and if the court shall decide that the new will is valid, it may admit the same to probate in the same manner as originally upon the probate of a contested will.
R.L.1910, § 6222.

§58-65. Result of revocation.

Upon the revocation being made, the powers of the executor or administrator with the will annexed, must cease; but such executor or administrator shall not be liable for any act done in good faith previous to the revocation.
R.L.1910, § 6223.

§58-66. Costs of contest.

The fees and expenses must be paid by the party contesting the validity or probate of the will, if the will in probate be confirmed. If the probate be annulled and revoked, the costs must be paid by the

party who resisted the revocation, or out of the property of the decedent, as the court directs.
R.L.1910, § 6224.

§58-67. Probate conclusive, when.
If no person, within three (3) months after the admission to probate of a will, contests the same or the validity thereof, the probate of the will is conclusive, saving to infants and persons of unsound mind, a period of one (1) year after their respective disabilities are removed.
R.L.1910, § 6225. Amended by Laws 1951, p. 161, § 1; Laws 1965, c. 156, § 1.

§58-81. Proceedings in case of lost will.
Whenever any will is lost or destroyed, the court must take proof of the execution and validity thereof and establish the same, notice to all heirs, legatees and devisees being first given, as prescribed in regard to proofs of wills in other cases. All the testimony given must be reduced to writing, signed by the witnesses, filed and preserved.
R.L.1910, § 6226; Laws 1953, p. 234, § 8; Laws 1969, c. 302, § 3, eff. Jan. 1, 1970.

§58-82. Special requisites of proof.
No will shall be proved as a lost or destroyed will, unless the same is proved to have been in existence at the time of the death of the testator or is shown to have been fraudulently destroyed in the lifetime of the testator, nor unless its provisions are clearly and distinctly proved by at least two credible witnesses. For purposes of this section, a copy of the alleged lost or destroyed will can be admitted into evidence, whether or not the copy reflects the signature or signatures appearing on the original will, if the copy is properly identified, and the court shall determine what probative value, if any, is to be assigned to such copy.
R.L. 1910, § 6227; Laws 1993, c. 345, § 6, eff. Sept. 1, 1993.

§58-83. Court's certificate - Filing - Letters testamentary.
When a lost or destroyed will is established, the provisions thereof must be distinctly stated and certified by the judge of the district court, under his hand and the seal of the court, and the certificate must be filed and recorded as wills are filed and recorded, and letters testamentary or of administration with the will annexed, must be issued thereon in the same manner as upon wills produced and duly proved; if the court has admitted into evidence a copy of the lost or destroyed will and finds that the copy distinctly states the provisions of the will, the court may certify the copy of the will as distinctly stating the provisions of the will; the

testimony must be reduced to writing; signed, certified and filed as in other cases, and shall be admissible as evidence in any subsequent proceeding.
R.L. 1910, § 6228; Laws 1993, c. 345, § 7, eff. Sept. 1, 1993.

§58-84. Restraint of former administration.

If before or during the pendency of an application to prove a lost or destroyed will, letters of administration are granted on the estate of the testator, or letters testamentary of any previous will of the testator are granted, the court may restrain the administrators or executors so appointed from any acts or proceedings which would be injurious to the legatees or devisees claiming under the lost or destroyed will.
R.L.1910, § 6229.

§58-91. Nuncupative wills, how proved.

Nuncupative wills may, at any time within six (6) months after the testamentary words are spoken by the decedent, be admitted to probate on petition and notice as provided for the probate of wills executed in writing. The petition, in addition to the jurisdictional facts, must allege that the testamentary words, or the substance thereof, were reduced to writing within thirty (30) days after they were spoken, which writing must accompany the petition.
R.L.1910, § 6230.

§58-92. Nuncupative wills - Special requirements.

The district court must not receive or entertain a petition for the probate of a nuncupative will until the lapse of fourteen (14) days from the death of the testator, nor must such petition be at any time acted on, unless the testamentary words are or their substance is, reduced to writing and filed with the petition, nor until the surviving husband or wife, if any, and all other persons resident in the state or county, interested in the estate, are notified, as provided herein.
R.L.1910, § 6231.

§58-93. Proceedings in contest.

Contests of the probate of nuncupative wills and appointments of executors and administrators of the estate devised thereby must be had, conducted and made as hereinbefore provided in cases of the probate of written wills: Provided, that double the period allowed for the petition of revocation of the probate of a written will shall be allowed in which to petition for the revocation and annulling of the nuncupative will.
R.L.1910, § 6232.

§58-101. Letters to issue to executor or successor in interest of corporate executor.

The court admitting a will to probate after the same is proved and allowed, must issue letters thereon to the persons named therein as executors, and in the case of a corporate executor, to the successor in interest of the corporate executor, who are competent to discharge the trust, who must appear and qualify unless objections be made as provided in Section 104 of this title. Provided, a successor in interest shall include a judicially ordered successor in the event of an assumption by a financial institution of fiduciary accounts for all trusts in existence on the date of the assumption, together with those testamentary trusts which come into existence after the date of assumption.
Amended by Laws 1988, c. 319, § 3, eff. Nov. 1, 1988.

§58-102. Who incompetent as executor.

No person is competent to serve as executor who at the time the will is admitted to probate is

1. Under the age of majority.
2. Convicted of an infamous crime.
3. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence, or want of understanding and integrity.

R.L.1910, § 6234.

§58-103. Failure of executors.

If the sole executor or all the executors are incompetent, or renounce or fail to apply for letters, or to appear and qualify, letters of administration with the will annexed must be issued.
R.L.1910, § 6235.

§58-104. Objections to issue of letters - Letters of administration with will annexed.

Any person interested in a will may file objections in writing, to granting letters testamentary to the persons named as executors, or any of them; and the objections must be heard and determined by the court. A petition may at the same time, be filed for letters of administration, with will annexed.
R.L.1910, § 6236.

§58-105. Death of an executor.

No executor of an executor shall, as such, be authorized to administer on the estate of the first testator, but on the death of the sole or surviving executor of any last will, letters of administration with the will annexed, of the estate of the first testator, left unadministered, must be issued.
R.L.1910, § 6237.

§58-106. Executor disqualified by absence or minority.

Where a person absent from the state, or a minor, is named executor, and there is another executor who accepts the trust and qualifies, the latter may have letters testamentary and administer the estate until the return of the absentee, or the majority of the minor, who may then be admitted as joint executor. If there is no other executor, letters of administration with the will annexed, must be granted; but the court may, in its discretion, revoke them on the return of the absent executor, or the arrival of the minor at the age of majority.
R.L.1910, § 6238.

§58-107. Two or more personal representatives.

A. When all the executors named are not appointed by the court, those appointed have the same authority to perform all the acts and discharge the trust required by the will, as effectually for every purpose as if all were appointed and should act together.

B. When there are two personal representatives:

1. if one of such personal representatives is laboring under any legal disability from serving, the act of the other shall be effectual; or

2. if one of such personal representatives has given his copersonal representative authority, in writing, to act for both, the act of the copersonal representative having such authority in writing shall be effectual.

C. When there are more than two personal representatives, the act of a majority of them is valid.
Amended by Laws 1988, c. 329, § 129, eff. Nov. 1, 1988.

§58-108. Presumed renunciation of executorship.

If the person named in a will as executor, for thirty (30) days after he has knowledge of the death of the testator, and that he is named as executor, fails to petition the proper court for the probate of the will, and that letters testamentary be issued to him, he may be held to have renounced his right to letters, and the court may appoint any other competent person administrator, unless good cause for delay is shown.
R.L.1910, § 6240.

§58-109. Administrators with will annexed - Authority - Letters.

Administrators with the will annexed have the same authority over the estates which executors named in the will would have, and their acts are effectual for all purposes. Their letters must be signed by the judge of the district court, and bear the seal thereof.
R.L.1910, § 6241.

§58-110. Form of letters testamentary.

Letters testamentary must be substantially in the following form:

State of Oklahoma,

County of _____.

The last will of A B, deceased, having been proved and recorded in the county court of the county of _____, C D, who is named therein, is hereby appointed executor.

Witness G H, judge of the county court of the county of _____, with the seal of the court affixed the _____ day of _____ A. D., 19__.

R.L.1910, § 6242; Laws 1953, p. 234, § 10.

§58-111. Letters of administration with will annexed, form of.

Letters of administration with will annexed must be substantially in the following form:

State of Oklahoma,

County of _____.

The last will of A B, deceased having been proved and recorded in the county court of the county of _____ and there being no executor named in the will (or, as the case may be,) C D is hereby appointed administrator, with the will annexed.

Witness G H, judge of the county court of the county of _____, with the seal of the court affixed, the _____ day of _____ A. D., 19__.

R.L.1910, § 6243; Laws 1953, p. 234, § 11.

§58-121. Letters of administration.

Letters of administration must be signed by the judge, under the seal of the court, and substantially in the following form:

State of Oklahoma,

County of _____

C D is hereby appointed administrator of the estate of A B, deceased.

Witness G H, judge of the county court of the county of _____, with the seal thereof affixed, the _____ day of _____ A. D., 19__.

(Seal and the official signature of the judge.)

R.L.1910, § 6244.

§58-122. Persons entitled to letters of administration.

Administration of the estate of a person dying intestate must be granted to some one or more of the persons hereinafter mentioned, and they are respectively entitled thereto in the following order:

1. The surviving husband or wife, or some competent person whom he or she may request to have appointed.
2. The children.
3. The father or mother.
4. The brothers or sisters.

5. The grandchildren.
6. The next of kin entitled to share in the distribution of the estate.
7. The creditors.
8. Any person legally competent.

If the decedent was a member of a partnership at the time of his decease, the surviving partner must in no case be appointed administrator of his estate.
R.L.1910, § 6245; Laws 1961, p. 440, § 1.

§58-123. Preferences.

Of several persons claiming and equally entitled to administer, relatives of the whole blood must be preferred to those of the half blood.
R.L.1910, § 6246; Laws 1961, p. 440, § 2.

§58-124. Where several equally entitled - Creditors.

When there are several persons equally entitled to the administration, the court may grant letters to one or more of them; and when a creditor is claiming letters, the court may, in its discretion, at the request of another creditor, grant letters to any other person legally competent.
R.L.1910, § 6247.

§58-125. Letters to guardian of minor entitled.

If any person entitled to administration is a minor, letters must be granted to his or her guardian, or any other person entitled to letters of administration, in the discretion of the court.
R.L.1910, § 6248.

§58-126. Who incompetent as administrator.

No person is competent to serve as administrator or administratrix, who, when appointed, is:
1. Under the age of majority.
2. Convicted of an infamous crime.
3. Adjudged by the court incompetent to execute the duties of the trust by reason of drunkenness, improvidence or want of understanding or integrity.
R.L.1910, § 6249.

§58-127. Requisites of petition for administration.

Petition for letters of administration must be in writing, signed by the applicant or his counsel, and filed with the judge of the court stating the facts essential to give the court jurisdiction of the case, and when known to the applicant, he must state the names, ages and residence of the heirs of the decedent, and the value and character of the property. If the jurisdictional facts existed, but

are not fully set forth in the petition, and are afterwards proved in the course of administration, the decree or order of administration and subsequent proceedings are not void on account of such want of jurisdictional averments.
R.L.1910, § 6250.

§58-128. Notice of hearing.

A. When a petition praying for letters of administration is filed, the judge of the court must set a day for hearing the same and cause notice thereof to be given, containing the name of the decedent, the name of the applicant for letters, and the day on which the application will be heard.

B. If the names and addresses of all heirs of the decedent are known to the petitioner and are set out in the petition, the notice must be given, as provided in Section 34 of this title, by mailing a copy of the same to each of the heirs of the deceased with the postage thereon prepaid at least ten (10) days before the day set for the hearing.

C. If the name or address of one or more heirs of the decedent is not known to the petitioner, notice of the hearing of the petition shall be given by mailing, as above provided, and by publishing the same one time in a legal newspaper in the county at least ten (10) days before the day set for the hearing.

D. If the petition asks for the appointment of some person entitled under the law to appointment, and there shall accompany such petition a waiver of all persons having a prior right to appointment or if the applicant has a prior right of appointment, then no notice shall be given and the court shall proceed without delay to hear such petition.
R.L.1910, § 6251; Laws 1953, p. 234, § 12; Laws 1955, p. 299, § 1; Laws 1967, c. 179, § 1, emerg. eff. May 1, 1967; Laws 1969, c. 302, § 4, eff. Jan. 1, 1970; Laws 1970, c. 218, § 2, emerg. eff. April 15, 1970; Laws 1994, c. 184, § 1, eff. Sept. 1, 1994.

§58-129. Contest of petition - Notice.

Any person interested may contest the petition by filing written opposition thereto, on the ground of the incompetency of the applicant, or may, at any time within thirty (30) days after an administrator has been appointed, assert his own rights to the administration and pray that letters be issued to himself. In the latter case the contestant must file his petition in the court. The court thereof shall set a day for hearing the same and the contestant shall give written notice by mail, postage prepaid, to the known heirs and the original petitioner or administrator, if the appointment has been made, of said contest, and the time and place set for hearing the same, at least five (5) days before said hearing.
R.L.1910, § 6252; Laws 1969, c. 302, § 5, eff. Jan. 1, 1970.

§58-130. Hearing of the petition - Order.

On the hearing, it being first proved that notice has been given as herein required, the court must hear the allegations and proofs of the parties, and order the issuing of letters of administration to the party best entitled thereto.
R.L.1910, § 6253.

§58-131. Court entry as to proof conclusive.

An entry in the minutes of the court, that the required proof was made and notice given, shall be conclusive evidence of the fact of such notice.
R.L.1910, § 6254.

§58-132. Letters granted to applicant where no contest.

Letters of administration must be granted to any applicant, though it appears that there are other persons having better rights to the administration when such persons fail to appear and claim the issuing of letters to themselves.
R.L.1910, § 6255.

§58-133. Proof of death intestate.

Before letters of administration are granted on the estate of any person who is represented to have died intestate, the fact of his dying intestate must be proved by the testimony of the applicant or others; and the court may also examine any other person concerning the time, place and manner of his death, the place of his residence at the time, the value and character of his property, and whether or not the decedent left any will, and may compel any person to attend as a witness for that purpose.
R.L.1910, § 6256.

§58-134. Nomination of stranger by person entitled.

Administration may be granted to one or more competent persons, although not entitled to the same, at the written request of the person entitled, filed in the court. When the person entitled is a nonresident of the state, affidavits or depositions taken ex parte before any officer authorized by the laws of this state to take acknowledgments and administer oaths out of this state, may be received as prima facie evidence of the identity of the party, if free from suspicion, and the fact is established to the satisfaction of the court.
R.L.1910, § 6257.

§58-135. Revocation in favor of person entitled.

When letters of administration have been granted to any person other than the surviving husband or wife, child, father, mother,

brother, or sister of the intestate, any one of them may obtain the revocation of the letters and be entitled to the administration, by presenting to the county court a petition praying the revocation, and that letters of administration be issued to him.
R.L.1910, § 6258.

§58-136. Notice of such petition.

When such petition is filed, the judge must in addition to the notice provided upon petition for letters, issue a citation to the administrator to appear and answer the same at the time appointed for the hearing.
R.L.1910, § 6259.

§58-137. Hearing - Order.

At the time appointed, the citation having been duly served and returned, the court must proceed to hear the allegations and proofs of the parties; and if the right of the applicant is established and he is competent, letters of administration must be granted to him, and the letters of the former administrator revoked.
R.L.1910, § 6260.

§58-138. Surviving spouse - Assertion of prior right.

The surviving husband or wife, when letters of administration have been granted to a child, father, mother, brother or sister of the intestate, or any of such relatives when letters have been granted to any other of them, may assert his prior right, and obtain letters of administration, and have the letters before granted revoked in the manner prescribed in the three preceding sections.
R.L.1910, § 6261.

§58-161. Oath - Records.

Before letters testamentary or of administration are issued to the executor or administrator, he must take and subscribe an oath, before some officer authorized to administer oaths, that he will perform, according to law, the duties of executor or administrator, which oath must be attached to the letters. All letters testamentary and of administration issued to, and all bonds executed by executors or administrators, with the affidavits and certificates thereon must be forthwith recorded by the judge in books to be kept by him in his office for that purpose.
R.L.1910, § 6262.

§58-162. Nonresident representative must appoint agent.

Every executor, administrator or guardian appointed in, but residing out of the state, shall, before entering upon the duties of his trust, in writing, appoint an agent residing in the county where he is appointed, and shall by such writing stipulate and agree that

the service of any legal process against him as such executor, administrator or guardian if made on said agent shall be of the same legal effect as if made on himself personally within the state. Such writing shall give the proper address of such agent and shall be filed in the office of the judge of the district court where such appointment is made.
R.L.1910, § 6263.

§58-171. Necessity and requisites of bond.

Every person to whom letters testamentary or of administration are directed to issue must, before receiving them, execute a bond to the State of Oklahoma with two or more sufficient sureties, to be approved by the judge of the district court. In form the bond must be joint and several, and the penalty must be in such sum as the court shall order after his examination on oath the party applying, and any other persons, as to the probable value of the personal property and the probable value of the annual rents from the real property and other circumstances pertaining thereto. Provided, however, the court may in its judgment make an order that no bond shall be required if the circumstances indicate none is necessary.
R.L.1910, § 6264; Laws 1963, c. 101, § 1, emerg. eff. May 27, 1963.

§58-173. Condition of bond.

The bond must be conditioned that the executor or administrator shall faithfully execute the duties of the trust according to law.
R.L.1910, § 6266.

§58-174. Separate bond for each person - Exception.

When two or more persons are appointed executors or administrators, the judge of the district court must require and take a separate bond from each of them. Provided, a single joint bond shall be permitted if said bond is signed by a corporate surety company.
R.L.1910, § 6267; Laws 1963, c. 134, § 1.

§58-175. Successive recoveries on the bond.

The bond shall not be void upon the first recovery, but may be sued and recovered upon from time to time, by any person aggrieved, in his own name, until the whole penalty is exhausted.
R.L.1910, § 6268.

§58-176. Justification of sureties - Approval of bond - Examination of sureties.

In all cases where bonds are required to be given, under this title, the officer taking the same must require the sureties to accompany it with an affidavit that they are each residents and householders or freeholders within the state, and are each worth the

sum specified in the bond, over and above all their just debts and liabilities, exclusive of property exempt from execution; but when the amount specified in the bond exceeds One Thousand Dollars ($1,000.00), and there are more than two sureties thereon, they may state in their affidavits that they are severally worth amounts less than that expressed in the bond, if the whole amount be equivalent to that of two sufficient sureties, and the affidavits thereof must be attached to, and filed and recorded with the bond. All such bonds must be approved by the judge of the district court before being filed and recorded. Before the judge of the district court approves any bond required under this title, and after its approval he may of his own motion, or upon the motion of any person interested in the estate, supported by affidavit that the sureties or some one or more of them are not worth as much as they have justified to, issue a citation, requiring such sureties to appear before him, at a designated time and place, to be examined touching their property and its value; and the judge must, at the same time, issue a notice to the executor or administrator, requiring his appearance on the return of the citation, and on its return he may examine the sureties and such witnesses as may be produced, touching the property of the sureties and its value; and if, upon such examination, he is satisfied that the bond is insufficient, he must require sufficient additional security.
R.L.1910, § 6269.

§58-177. Executor or administrator deposed when bond insufficient.
If sufficient security be not given within the time fixed by the judge's order, the right of such executor or administrator to the administration shall cease, and the person next entitled to the administration on the estate, who will execute a sufficient bond, must be appointed to the administration.
R.L.1910, § 6270.

§58-178. Bond waived by will.
When it is expressly provided in the will that no bond shall be required of the executor, letters testamentary may issue and sales of real estate be made and confirmed without any bond, unless the court, for good cause, require one to be executed; but the executor may, at any time afterward, if it appears from any cause necessary or proper, be required to file a bond as in other cases.
R.L.1910, § 6271.

§58-179. Petition when bond insufficient - Further security.
Any person interested in an estate may, by verified petition, represent to the judge of the district court that the sureties of the executor or administrator thereof have become, or are becoming insolvent or that they have removed or are about to remove from this

state, or that from any other cause the bond is insufficient, and ask that further security be required.
R.L.1910, § 6272.

§58-180. Issuance and service of citations.
If the judge is satisfied that the matter requires investigation, a citation must be issued to the executor or administrator, requiring him to appear, at a time and place to be therein specified to show cause why he should not give further security. Notice of the citation together with a copy thereof must be mailed by certified mail to the executor or administrator and his attorney of record, if any, at least five (5) days before the return day. If he has absconded, or cannot be found, it may be served by leaving a copy of it at his last place of residence, or by such publication as the judge may order.
R.L.1910, § 6273; Laws 1969, c. 302, § 6, eff. Jan. 1, 1970.

§58-181. Hearing and order - New bond.
On the return of the citation, or at such other time as the judge may appoint, he must proceed to hear the proofs and allegations of the parties. If it satisfactorily appears that the security is from any cause insufficient, he may make an order requiring the executor or administrator to give further security, or to file a new bond, in the usual form, within a reasonable time, not less than five (5) days.
R.L.1910, § 6274.

§58-182. Revocation of letters for failure to file new bond.
If the executor or administrator neglects to comply with the order within the time prescribed, the judge must, by order, revoke his letters, and his authority must thereupon cease.
R.L.1910, § 6275.

§58-183. Suspension of powers and removal for failure to give bond or further security - Periodical examination of bonds.
When a petition is presented praying that an executor or administrator be required to give further security, or to give bond where, by the terms of the will no bond was originally required and it is alleged on oath that the executor or administrator is wasting the property of the estate, the judge may, by order, suspend his powers until the matter can be heard and determined. It shall be the duty of the district court to make an examination of all bonds filed by administrators, or guardian or executors, at least once each year, and to make diligent inquiry as to the solvency of the sureties on such bond, and to ascertain if they are still residents within the state, and all other matters which might affect the said bonds or the sureties thereon. And if such sureties are not found to be fully

solvent and safe the court shall demand further security, and if it is not given within a reasonable time, the administrator, executor or guardian shall be removed.
R.L.1910, § 6276.

§58-184. Bond insufficient - Citation on personal knowledge of judge.

When it comes to his knowledge that the bond of any executor or administrator is, from any cause, insufficient, the judge of the district court, without any application, must cite him to appear and show cause why he should not give further security, and must proceed thereon as upon the application of any person interested.
R.L.1910, § 6277.

§58-185. Release, application by surety for - Issuance and service of citation.

When a surety of any executor, administrator or guardian desires to be released from responsibility on account of future acts, he may make application by petition to the judge of the district court for relief. The judge must issue a citation to the executor, administrator, or guardian, to be served personally upon him requiring him to appear at a time and place, to be therein specified, and give other security. If he has absconded, left or removed from the state, or cannot be found after due diligence and inquiry, service may be made as provided when the citation is to require further security.
R.L.1910, § 6278; Laws 1913, c. 63, p. 100, § 1.

§58-186. Release allowed, when.

If new sureties be given to the satisfaction of the judge, he may thereupon make and enter an order that the sureties who applied for relief shall not be liable on their bond for any subsequent act, default or misconduct of the executor or administrator.
R.L.1910, § 6279.

§58-187. Refusal to give new sureties - Revocation of letters.

If the executor or administrator neglects or refuses to give new sureties, to the satisfaction of the judge, on the return of the citation, or within such reasonable time as the judge shall allow, unless the surety making the application shall consent to a longer extension of time, the judge must, by order, revoke his letters.
R.L.1910, § 6280.

§58-188. Hearings out of term time.

The applications authorized by the nine preceding sections of this article, may be heard and determined at any time; and all orders made therein must be entered upon the minutes of the court.

R.L.1910, § 6281.

§58-211. Special administrators appointed, when.

When there is delay in granting letters testamentary, or of administration, from any cause, or when such letters are granted irregularly, or no sufficient bond is filed as required, or when no application is made for such letters, or when an administrator or executor dies, or is suspended, suspended partially, or removed, the judge of the district court may appoint a special administrator to collect and take charge of the estate of the decedent, in whatever county or counties the same may be found, and to exercise such other powers as may be necessary for the preservation of the estate.
R.L. 1910, § 6282; Laws 1992, c. 395, § 5, eff. Sept. 1, 1992.

§58-212. How appointed - Notice.

The appointment may be made without notice, and must be made by entry upon the minutes of the court specifying the powers to be exercised by the administrator. Upon such order being entered, and after the person appointed has given bond, the judge must issue letters of administration to such person, in conformity with the order in the minutes.
R.L.1910, § 6283. 9

§58-213. Preference.

In making the appointment of a special administrator, the judge must give preference to the person entitled to letters testamentary or of administration, but no appeal must be allowed from the appointment.
R.L.1910, § 6284.

§58-214. Bond and oath of special administrator.

Before any letters issued to any special administrator, he must give bond, in such sum as the judge may direct, with sureties to the satisfaction of the judge, conditioned for the faithful performance of his duties; and he must take the usual oath and have the same endorsed on his letters.
R.L.1910, § 6285; Laws 1953, p. 235, § 13.

§58-215. Duties of special administrator.

A. The special administrator must collect and preserve for the executor or administrator all the goods, chattels, debts and effects of the decedent, all incomes, rents, issues and profits, claims and demands, of the estate, must take the charge and management of, and enter upon and preserve from damage, waste and injury, the real estate, and for such and all other necessary purposes may commence and maintain or defend suits and other legal proceedings, as an administrator; he may sell such perishable property as the district

court may order to be sold, and exercise such other powers as are conferred upon him by his appointment, but in no case is he liable to an action by any creditor on a claim against the decedent. He may obtain leave to borrow money, or to lease or mortgage real property, in the same manner as a general administrator.

B. If an executor or administrator is not appointed within sixty (60) days following the appointment of a special administrator, upon application to and approval by the court, the special administrator may, as provided by statute, give notice to creditors and, upon receipt of creditor's claims as required by statute, pay, with the approval of the probate court, such claims.

R.L.1910, § 6286; Laws 1955, p. 299, § 2; Laws 1980, c. 201, § 1, eff. Oct. 1, 1980.

§58-216. Special administrator superseded by regular appointee.

When letters testamentary or of administration on the estate of the decedent have been granted, the powers of the special administrator cease, and he must forthwith deliver to the executor or administrator all the property and effects of the decedent in his hands; and the executor or administrator may prosecute to final judgment any suit commenced by the special administrator.

R.L.1910, § 6287.

§58-217. Account, special administrator must render.

The special administrator must render an account, on oath of his proceedings, in like manner as other administrators are required to do. The special administrator shall be entitled to a fee to be determined by the court in its discretion, which fee shall in no event exceed the fee allowed to an executor or administrator pursuant to Section 527 of this title.

R.L. 1910, § 6288; Laws 1992, c. 395, § 6, eff. Sept. 1, 1992.

§58-218. Letters of administration revoked on proof of will.

If, after granting letters of administration on the ground of intestacy, a will of the decedent is duly proved and allowed by the court, the letters of administration must be revoked, and the power of the administrator ceases, and he must render an account of his administration within such time as the court shall direct.

R.L.1910, § 6289.

§58-219. Rights of executor or administrator with will annexed.

In such case, the executor or the administrator with the will annexed, is entitled to demand, sue for, recover and collect all the rights, goods, chattels, debts and effects of the decedent remaining unadministered, and may prosecute to final judgment any suit commenced by the administrator before the revocation of his letters of administration.

R.L.1910, § 6290.

§58-220. Surviving executor or administrator - Duties.

In case any one of several executors or administrators, to whom letters are granted, dies, becomes an incapacitated or partially incapacitated person as such terms are defined by Section 1-111 of Title 30 of the Oklahoma Statutes, is convicted of an infamous crime, or otherwise becomes incapable of executing the trust, or in case the letters testamentary or of administration are revoked or annulled, with respect to any one executor or administrator, the remaining executor or administrator must proceed to complete the execution of the will or administration.
R.L. 1910, § 6291. Amended by Laws 1998, c. 246, § 23, eff. Nov. 1, 1998.

§58-221. New administrator appointed, when.

If all such executors or administrators die or become incapable, or the power and authority of all of them are revoked, the proper court must issue letters of administration, with the will annexed or otherwise, to the widow or next in kin, or others, in the same order and manner as is directed in relation to original letters of administration. The administrators so appointed must give bond in the like penalty, with like sureties and conditions as hereinbefore required of administrators, and shall have the like power and authority.
R.L.1910, § 6292.

§58-231. Resignation and settlement - Revoking letters.

Any executor or administrator may, at any time, by writing, filed in the district court, resign his appointment, having first settled his account and delivered up all the estate to the person whom the court shall appoint to receive the same. If, however, by reason of any delays in such settlement and delivering up of the estate, or for any other cause, the circumstances of the estate or the rights of those interested therein require it, the court may at any time before the settlement of accounts and delivering up of the estate is completed, revoke the letters of such executor or administrator, and appoint in his stead an administrator, either special or general, in the same manner as directed in relation to original letters of administration. The liability of the outgoing executor or administrator, or of the sureties on his bond, shall not be in any manner discharged, released or affected by such appointment or resignation.
R.L.1910, § 6293.

§58-232. Acts before revocation of letters are valid.

All acts of executor or administrator, as such, before the revocation of his letters testamentary or of administration, are as valid, to all intents and purposes, as if such executor or administrator had continued lawfully to execute the duties of his trust.
R.L.1910, § 6294; Laws 1953, p. 235, § 14.

§58-233. Proof of appointment.
A transcript from the minutes of the court, showing the appointment of any person as executor or administrator, together with the certificate of the judge, under his hand and the seal of his court, that such person has given bond and qualified, and that letters testamentary or of administration have been issued to him and have not been revoked, shall have the same effect in evidence as the letters themselves.
R.L.1910, § 6295.

§58-234. Duty of judge in case of embezzlement - Reports.
A. Whenever the judge has reason to believe, from his own knowledge or from credible information, that any executor or administrator has wasted, embezzled or mismanaged, or is about to waste, or embezzle the property of the estate committed to his charge, or has committed or is about to commit a fraud upon the estate, or is incompetent to act or has wrongfully neglected the estate, or has long neglected to perform any act as such executor or administrator, he must, by an order entered upon the minutes of the court, suspend the powers of such executor or administrator until the matter is investigated.
B. If the judge determines on his own motion, or upon application by an interested party and upon proper showing, that an executor or administrator is subject to a conflict of interest which substantially impairs the executor's or administrator's ability to perform his duties as required by law, the judge shall suspend the powers of the executor or administrator with respect to the subject matter of the conflict of interest and appoint a special administrator to act with respect to such subject matter. The executor or administrator shall remain empowered to act with respect to all other matters.
C. The judge of the district court shall require each and every administrator, executor or guardian to make a report at least once in each year, showing the condition of the estate, and of all property, notes, monies, and other assets in his hands and the use that has been made thereof during the past year.
R.L. 1910, § 6296; Laws 1992, c. 395, § 7, eff. Sept. 1, 1992.

§58-235. Citation on suspension - Revocation of letters.

When such suspension is made, notice thereof must be given to the executor or administrator, and he must be cited to appear and show cause why his letters should not be revoked. If he fail to appear in obedience to the citation, or, if appearing, the court is satisfied there exists cause for his removal, his letters must be revoked, and letters of administration granted anew as the case may require.
R.L.1910, § 6297.

§58-236. Hearing of the issues.

At the hearing, any person interested in the estate may appear and file his allegations in writing, showing that the executor or administrator should be removed, to which the executor or administrator may demur or answer, as hereinbefore provided, and the court must hear and determine the issues raised.
R.L.1910, § 6298.

§58-237. Attendance of executor or administrator may be compelled.

In the proceedings authorized by the preceding three sections, for the removal of an executor or administrator, the court may compel his attendance by attachment, and may compel him to answer questions, on oath, touching his administration, and upon his refusal to do so, may commit him until he obey, or may revoke his letters, or both.
R.L.1910, § 6299.

§58-238. Notice by publication, when.

If any executor, administrator or guardian has absconded or conceals himself or has removed or absented himself from the state, notice may be given him of the pendency of any proceedings in which he is interested in any court, by such publication, or in such other manner as the court may direct, and the court may proceed upon such notice as if the citation had been personally served.
R.L.1910, § 6300; Laws 1969, c. 302, § 7, eff. Jan. 1, 1970.

§58-239. Petition - Consent - Orders to be entered - Withdrawal of waivers or consents - Consent not required, when.

A. After the appointment of the personal representative, and, provided that a determination of the identities of the heirs, devisees and legatees of the decedent has been made pursuant to the provisions of Section 240 of this title, and upon the filing of a petition or application, the petition to be accompanied by acknowledged, written consents by all heirs, devisees and legatees, other than contingent devisees and legatees, persons authorized to act on behalf of any heir, devisee or legatee under any legal disability, and personal representatives of the estate of any deceased heir, devisee or legatee, the court may enter an order:

1. Authorizing the personal representative to sell, grant, lease, mortgage or encumber any real or personal property including

mineral interests, and to execute and issue deeds, leases, bills of sale, notes, mortgages, easements and other documents of conveyance, without further judicial authorization or a return of sale or confirmation of such sale or transaction. Any sale or transaction so authorized shall pass title to the purchaser without being confirmed by the court, notwithstanding any statutory provision to the contrary; or

2. Waiving the filing of any accounting specified in the consents of the persons herein named, or waiving the necessity for presentation to the court for approval of any such accounting.

B. Waivers or consents may be withdrawn at any time and thereafter all acts shall be in accordance with regular statutory procedures. A withdrawal of a waiver or consent shall be effected by filing a written statement of withdrawal with the court clerk and by serving a certified copy on the personal representative or the attorney for the personal representative by certified mail.

C. Notwithstanding the foregoing, if the petition or application is filed after three (3) months from the date of admission of the will to probate, and no appeal of the admission of the will is pending nor has any contest to admission of the will to probate been filed after admission of the will to probate, and if the will contains a residuary disposition clause, then the consents of heirs who are neither devisees nor legatees shall not be required. Added by Laws 1980, c. 310, § 7, eff. Oct. 1, 1980. Amended by Laws 1989, c. 276, § 2, eff. Nov. 1, 1989; Laws 1993, c. 345, § 8, eff. Sept. 1, 1993; Laws 2010, c. 44, § 1, eff. Nov. 1, 2010.

§58-240. Determination of heirs, devisees and legatees under certain circumstances - Hearing without notice.

A. If a petition is filed for the appointment of a personal representative and the petitioner requests that the identity of the heirs, devisees and legatees be determined at the initial hearing and the notice of hearing such petition reflects such request, then at the first hearing on a petition to admit a will to probate or a petition for the appointment of a personal representative in an intestate proceeding, the court may determine the identity of all heirs, devisees and legatees, and any guardian or conservator of any minor or incompetent heir, devisee or legatee.

B. If the petition filed for the appointment of a personal representative or the notice of hearing such petition does not contain or reflect a request that the identity of the heirs, devisees and legatees be determined at the initial hearing, the personal representative may, at any time during the course of administration, file with the court a petition requesting that the identity of the heirs, devisees and legatees be determined. Such petition shall be heard following at least ten (10) days' prior notice to the heirs, devisees and legatees.

C. If the petition requests the appointment of an administrator and the court determines that the petition can be heard without notice pursuant to the provisions of Section 128 of this title, and the petition also contains a request that the identity of the heirs of the intestate decedent be determined, the court may proceed to appoint the administrator without notice and set such petition for hearing, following at least ten (10) days' prior notice to the heirs, with respect to the request that the identity of the heirs, legatees and devisees be determined.

D. Any determination of heirs, legatees and devisees made pursuant to this section shall be conclusive for the purpose of acting upon any petition or application purporting to include waivers or consents of all heirs, devisees and legatees, but shall not establish the proportional interest of any person entitled to receive any distribution of assets or property from the estate; nor shall it prevent any person or entity from later establishing identity or rights as an heir, devisee or legatee.

Laws 1980, c. 310, § 2, eff. Oct. 1, 1980; Laws 1991, c. 148, § 1, eff. Sept. 1, 1991.

§58-241. Dispensing with regular proceedings in estates under $150,000 - Notice to creditors and notice of hearing - Procedure.

A. If, upon filing a petition for probate and after the appointment of the personal representative, it appears that the value of the real and personal property in the estate does not exceed One Hundred Fifty Thousand Dollars ($150,000.00), the court shall order the personal representative to make an inventory of the estate, and the court shall appoint appraisers unless the court determines that appraisement is not necessary.

B. If, upon return of the inventory of the estate of the decedent, and appraisement of the estate if required, it appears that the value of the whole estate, both real and personal property, does not exceed One Hundred Fifty Thousand Dollars ($150,000.00), and upon application of the personal representative, the court shall dispense with the regular proceedings or any part thereof prescribed by law, and the court shall order notice to creditors, and issue order for hearing upon the final accounting and petition for determination of heirship, distribution and discharge; provided, nothing herein shall affect the lien upon any property for any estate or transfer tax which may be due upon the estate of the decedent.

C. Notice to creditors and notice of hearing upon the final accounting and petition for determination of heirship, distribution and discharge shall be published once each week for two (2) consecutive weeks in some newspaper of general circulation, published in the county where the probate is filed. If there is no legal newspaper in a county, then all such notices required by this subsection shall be published in a legal newspaper in an adjoining

county having a legal newspaper. Notice to creditors and notice of hearing upon the final accounting, determination of heirship, distribution and discharge may be combined in one notice, referred to as a "combined notice". The notice to creditors or combined notice shall be mailed to creditors of the decedent as provided in Sections 331 and 331.1 of this title. Creditors shall file claims against the estate with the personal representative or the attorney for personal representative within thirty (30) days after the publication of the notice. Notice of the hearing or the combined notice shall be mailed to all persons interested in the estate of the decedent at their respective last-known addresses not less than ten (10) days prior to the date of the hearing, and the notice shall set forth a date by which final account and petition for distribution will be filed. The date of the filing shall precede by at least five (5) days the order allowing final accounting, determination of heirs, and of legatees and devisees, if any, and distribution.

D. The matter shall be set for hearing not less than thirty-five (35) days following the first publication of notice to creditors or combined notice, and upon the hearing the court shall, after proof of payment of funeral expenses, expenses of last sickness and of administration and allowed claims, issue an order allowing the final accounting, determining heirship and the legatees and devisees, if any, of the decedent, distributing the property of the estate and discharging the personal representative and surety or sureties on the personal representative's bond, or defer such discharge if in the discretion of the court such deferral is necessary or desirable.
Added by Laws 1961, p. 441, § 1. Amended by Laws 1970, c. 98, § 1, emerg. eff. March 30, 1970; Laws 1971, c. 94, § 1, eff. Oct. 1, 1971; Laws 1973, c. 121, § 1, emerg. eff. May 4, 1973; Laws 1975, c. 33, § 1, eff. Oct. 1, 1975; Laws 1976, c. 78, § 1, eff. Oct. 1, 1976; Laws 1979, c. 46, § 1; Laws 1988, c. 228, § 2, emerg. eff. June 22, 1988; Laws 1993, c. 345, § 9, eff. Sept. 1, 1993; Laws 2004, c. 114, § 1, eff. Nov. 1, 2004.

§58-242. Probate of will as conclusive.

If no person within sixty (60) days after the will has been admitted to probate contests the same or the validity thereof, the probate of the will is conclusive.
Laws 1961, p. 442, § 2.

§58-243. Limitation of claims.

All creditors having claims against the decedent shall present their claims, as provided in Sections 333 and 334 of this title, by the presentment date stated in the notice to creditors or combined notice or the same will be forever barred.
Amended by Laws 1988, c. 228, § 3, emerg. eff. June 22, 1988.

§58-245. Petition for summary administration - Conditions - Requirements.

A. A petition for summary administration may be filed by any person interested in an estate that meets one of the following conditions:

1. The value of the estate is less than or equal to Two Hundred Thousand Dollars ($200,000.00);

2. The decedent has been deceased for more than five (5) years; or

3. The decedent resided in another jurisdiction at the time of death.

B. The petition shall set forth the following:

1. A statement of the interest of the petitioner;

2. The name, age and date of death of the decedent, and the county and state of the decedent's domicile at the time of death;

3. If the decedent died testate, the original or certified copy of the will of the decedent shall be attached to the petition, together with a statement that:

   a. the petitioner, to the best of the knowledge of the petitioner, believes the will to have been validly executed, and

   b. after the exercise of due diligence, the petitioner is unaware of any instrument revoking the will, and that the petitioner believes that the instrument attached to the application is the decedent's last will;

4. Whether the will attached to the petition has been admitted to probate in any other jurisdiction;

5. If the decedent died intestate, the petitioner shall state that the petitioner has diligently searched for and failed to find a will;

6. The names, ages and last-known addresses of the administrators, executors, nonpetitioning conominees, heirs, legatees and devisees of the decedent, so far as known to the petitioner;

7. The names and last-known addresses of all known creditors of the decedent. The petitioner shall state that the petitioner has exercised due diligence in determining the identities, last-known addresses and claims of the decedent's creditors;

8. The probable value and character of the property of the estate and the legal description of all real property owned by the decedent in Oklahoma;

9. Whether an application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

10. A statement of the relief requested, which may include a prayer for the court to admit the will, if any, to probate, to appoint the person requested in the petition as personal representative, to determine the heirs, devisees and legatees of the

decedent, to approve the final account, to distribute the property of the estate and to discharge the personal representative; and

11. A waiver of the final accounting pursuant to Section 541 of this title, if applicable.

C. The petition shall be verified by the petitioner or signed by the attorney for the petitioner.

D. The court, without a hearing, shall issue letters of special administration to the person requested in the petition if the petition is in proper form and:

1. The proposed personal representative is named as personal representative in the will;

2. The proposed personal representative has prior right to appointment; or

3. The petition is accompanied by a waiver of all persons entitled to letters testamentary and all persons with a prior right of appointment.

The special administrator shall have the powers set forth in subsection A of Section 215 of this title. The court, in its discretion, may require a bond.

Added by Laws 1998, c. 359, § 1, eff. Nov. 1, 1998. Amended by Laws 2013, c. 144, § 1, eff. Nov. 1, 2013; Laws 2014, c. 155, § 1, emerg. eff. April 25, 2014.

§58-246. Petition for summary administration - Notice.

A. Upon the filing of the petition and combined notice, the court shall dispense with the regular estate proceedings prescribed by law and the court shall order notice to creditors and issue an order granting final hearing upon the petition for admission of the will, if any, to probate, the petition for summary administration, the final accounting, and the petition for determination of heirship, distribution and discharge. However, nothing in this section shall affect the lien upon any property for any estate or transfer tax which may be due upon the estate of the decedent.

B. Notice to creditors and notice of hearing upon the petition for summary administration and the final accounting, determination of heirship, and distribution and discharge shall be combined into one notice, referred to as a "combined notice". Combined notice shall be filed at the same time the petition for summary administration is filed. The combined notice shall set forth the following:

1. The name, address, and date of death of the decedent;

2. The name and address of the petitioner;

3. Whether a will exists;

4. The name and address of the personal representative, if specified;

5. The name and address of the heirs or devisees;

6. The probable value of the estate of the decedent as set forth in the petition;

7. The date, time and place of the final hearing;

8. That the person receiving the notice or any interested party may file objections to the petition at any time before the final hearing and send a copy to the petitioner or that person will be deemed to have waived any objections to the petition;

9. That if an objection is filed before the hearing, the court will determine at the hearing whether the will attached to the petition shall be admitted to probate, whether summary proceedings are appropriate and, if so, whether the estate will be distributed and to whom the estate will be distributed; and

10. The claim of any creditor will be barred unless the claim is presented to the personal representative no more than thirty (30) days following the granting of the order admitting the petition and combined notice.

C. Within ten (10) days of the granting of the order admitting the petition and combined notice, notice of the petition, notice to creditors, and notice of final accounting, determination of heirship, distribution and discharge shall be published once each week for two (2) consecutive weeks in a newspaper that is authorized by law to publish legal notices and that is published in the county where the petition is filed. If no newspaper authorized by law to publish legal notices is published in the county, the notice shall be posted in three public places in the county, one of which shall be the county courthouse. Within ten (10) days of the granting of the order admitting the petition and combined notice, the combined notice shall be mailed to creditors of the decedent as provided in Sections 331 and 331.1 of this title. Within ten (10) days of the granting of the order admitting the petition and combined notice, the combined notice shall be mailed to all persons interested in the estate of the decedent at their respective last-known addresses.

D. The matter shall be set for final hearing not less than forty-five (45) days following the granting of the order admitting the petition and combined notice.

E. If there is a defect in notice or in the form of the petition or if objections are filed, or for other good cause shown, the hearing may be postponed to a date certain.

Added by Laws 1998, c. 359, § 2, eff. Nov. 1, 1998. Amended by Laws 2013, c. 144, § 2, eff. Nov. 1, 2013; Laws 2014, c. 155, § 2, emerg. eff. April 25, 2014.

§58-247. Petition for summary administration - Hearing - Order.

A. At the hearing, the court shall hear objections from all persons who timely filed objections. If the court determines that summary proceedings are appropriate, the court may, after proof of payment of funeral expenses, expenses of last sickness and of administration and allowed claims, issue an order approving the petition for summary administration, finding that the will has been

proved as required by law, admitting the will attached to the petition to probate, allowing the final accounting, determining heirship and the legatees and devisees, if any, of the decedent, distributing the property of the estate and discharging the personal representative and surety or sureties on the personal representative's bond, or defer such discharge if in the discretion of the court such deferral is necessary or desirable.

B. The order of the court shall have the same force and effect as a final decree or order rendered in any other proceeding provided in this title for distribution of the estate of a decedent. A certified copy of the order or a notice of the order as set forth in Section 711 of Title 58 of the Oklahoma Statutes shall be filed and recorded in the records of the county clerk in any county where real property in which the decedent had any right, title, or interest is located.

Added by Laws 1998, c. 359, § 3, eff. Nov. 1, 1998.

§58-251. Powers and duties of executors and administrators.

The executor or administrator must take into his possession all the estate of the decedent, real and personal, except the homestead and personal property not assets, and collect all debts due to the decedent or to the estate. For the purpose of bringing suits to quiet title or for partition of such estate, the possession of the executors or administrators, is the possession of the heirs or devisees; such possession by the heirs or devisees is subject, however, to the possession of the executor or administrator, for the purpose of administration, as provided in this chapter.

R.L.1910, § 6301.

§58-252. Actions.

Actions for the recovery of any property, real or personal, or for the possession thereof, and all actions founded upon contracts, may be maintained by and against executors and administrators in all cases and in the same courts in which the same might have been maintained by or against their respective testators and intestates.

R.L.1910, § 6302.

§58-253. Action for waste, trespass and conversion.

Executors and administrators may in like manner maintain actions against any person who has wasted, destroyed, taken or carried away, or converted to his own use, the goods of their testator or intestate in his lifetime. They must also maintain actions for trespass committed on the real estate of the decedent in his lifetime.

R.L.1910, § 6303.

§58-254. Certain actions against representatives.

Any person, or his personal representatives, may maintain an action against the executor or administrator of any testator or intestate who in his lifetime had wasted, destroyed, taken, or carried away, or converted to his own use, the goods or chattels of any such person or committed any trespass on the real estate of such person.
R.L.1910, § 6304.

§58-255. Repealed by Laws 1997, c. 399, § 71, eff. Nov. 1, 1997.

§58-256. Action against predecessor.
An administrator may, in his own name, for the use and benefit of all parties interested in the estate, maintain actions on the bond of an executor, or of any former administrator of the same estate.
R.L.1910, § 6306.

§58-257. Joinder of parties.
In actions by or against executors, it is not necessary to join those as parties to whom letters were issued, but who have not qualified.
R.L.1910, § 6307.

§58-258. Compromise with debtors allowable.
Whenever a debtor of a decedent is unable to pay all his debts, the executor or administrator, with the approbation of the judge of the district court, may compound with him, and give him a discharge upon receiving a fair and just dividend of his effects. A compromise may also be authorized, when it appears to be just and for the best interest of the estate.
R.L.1910, § 6308.

§58-259. Fraudulent conveyances, recovery of.
When there is a deficiency of assets in the hands of the executor or administrator, and when the decedent, in his lifetime, has conveyed any real estate, or any rights or interests therein, with intent to defraud his creditors, or to avoid any right, debt or duty of any person, or has so conveyed such estate that by law the deeds or conveyances are void as against creditors, the executor or administrator must commence and prosecute to final judgment any proper action for the recovery of the same, and may recover for the benefit of the creditors all such real estate so fraudulently conveyed; and he may also, for the benefit of the creditors, sue and recover all goods, chattels, rights or credits which have been so conveyed by the decedent in his lifetime, whatever may have been the manner of such fraudulent conveyance.
R.L.1910, § 6309.

§58-260. Creditors must secure costs.

No executor or administrator is bound to sue for such estate as mentioned in the preceding section, for the benefit of the creditors, unless on application of creditors, who must pay such part of the costs and expenses of the suit, or give such security therefor to the executor or administrator, as the judge shall direct.
R.L.1910, § 6310.

§58-261. Sale of realty recovered.

All real estate so recovered must be sold for the payment of debts, in the same manner as if the decedent had died seized thereof, upon obtaining an order therefor from the district court; and the proceeds of all goods, chattels, rights and credits so recovered must be appropriated in the payment of the debts of the decedent, in the same manner as other property in the hand of the executor or administrator.
R.L.1910, § 6311.

§58-262. Foreign executors and administrators - Right of action - Proof of authority - Security - Release of mortgages.

It shall be lawful for any person or persons to whom letters testamentary or of administration have been granted, by the proper authority in any of the United States or the territories thereof, to maintain or defend any suit or action, and to prosecute and recover any claim in the courts of the State of Oklahoma, in the same manner as if the letters testamentary or of administration had been granted to such person by the proper authority in this state, and the letters testamentary or of administration, or a copy thereof, certified under the seal of the authority granting the same, shall be sufficient evidence to prove the granting thereof, and that the person therein named has administration; Provided, that the courts in which any action may be brought by any nonresident executor or administrator shall have power, and such power is hereby given to the said court, upon motion, to require from such person the security required by law in a like case from a resident administrator or executor; Provided, further, that such executor or administrator shall have the authority to release mortgages in this state upon filing with the county clerk of the county in which such mortgage is recorded a showing properly certified to that such executor or administrator is the duly qualified and acting executor or administrator of such estate.
R.L.1910, § 6312; Laws 1915, c. 39, § 1.

§58-263. Conducting going business.

The executor or administrator shall have the power, where authorized by order of the district court, to take charge of, conduct and continue any going business, enterprise or manufactory of a deceased person, when the same has not been disposed of by will, and

where it is not necessary that the same be sold at once for the payment of debts; and shall have the right to borrow money and incur indebtedness in the conduct, or continuation of such business. Before such business, manufactory or enterprise shall be continued, the executor or administrator shall take into consideration the condition of the estate and the necessity that may exist for the future sale of said property for the payment of claims or legacies; and the time for conducting such enterprise, business or manufactory shall not extend the time beyond what may be considered by the court a reasonable time for the settlement of the estate of the deceased; provided, however, that before any executor or administrator shall continue such enterprise, business or manufactory, or incur any indebtedness in the conduct of such enterprise, business or manufactory, he shall first present to the district court a petition showing that it is to the best interest of the estate of the decedent that such enterprise, business or manufactory be continued, and the continuation of such business, enterprise or manufactory must first be approved by the judge of the district court having jurisdiction of the settlement of the estate of the deceased.
Laws 1921, c. 54, p. 74, § 1.

§58-264. Borrowing money to pay taxes - Mortgage or pledge of assets.

Executors and administrators of estates of deceased persons are authorized to borrow money with which to pay the taxes imposed and levied by the:

(a) United States upon the transfer of the net estates of decedents who are citizens and residents of the United States,

(b) State of Oklahoma upon the transfer of the net estate of decedents by will or the intestate laws of Oklahoma,

(c) United States and the State of Oklahoma upon the income of such estates and of the decedents,

and to mortgage or pledge any of the assets of the estate as security for any such loan. Said executors and administrators are authorized to borrow money to pay any indebtedness incurred on behalf of the estate for such purposes and to mortgage or pledge any of the assets of the estate as security for any such loan.
Laws 1941, p. 230, § 1.

§58-265. Approval of contract by judge of district court - Procedure - Limitation to two thirds of appraised value, exception as to.

Any contract for the borrowing of money or the mortgaging or pledging of the assets of the estate for any of the purposes stated in Section 264 of this title must have the approval of the judge of the district court having jurisdiction of the settlement of the estate and the procedure therefor shall be the same procedure as that

provided for in Sections 385-b (as amended), 385-c, and 385-d of this title, except that personal property may be mortgaged or pledged as security for such indebtedness without limitation to two-thirds (2/3) of the appraised value thereof.
Laws 1941, p. 230, § 2; Laws 1953, p. 235, § 15.

§58-266. Renewal or extension of time of payment.
The judge of the district court may authorize executors or administrators to enter into contracts for and to renew or extend the time of payment of any indebtedness incurred under this act.
Laws 1941, p. 231, § 3.

§58-267. Validation of prior contracts.
All contracts for the borrowing of money and giving of security heretofore made by any executor or administrator for any of the purposes stated in Section 1 of this act and approved by the judge of the district court having jurisdiction of the settlement of the estate, where the money was actually used for any of such purposes, are hereby declared valid.
Laws 1941, p. 231, § 4.

§58-268. Action against nonprobate beneficiaries for state and federal estate tax - Notice - Costs and attorney fees.
For property other than the probate estate passing directly upon the death of a decedent to another, by law, the executor or administrator of the estate of the decedent shall have the authority to bring an action in the district court having jurisdiction of the probate estate for the collection of any of the state or federal estate tax due and owing by the nonprobate beneficiaries after ten (10) days following service of notice by such executor or administrator upon such nonprobate beneficiary before suit is filed. Such notice shall state the amount of federal or state tax due to the executor or administrator by the nonprobate beneficiary. In such actions, the court costs and reasonable attorney fees may be assessed in favor of the prevailing party.
Added by Laws 1990, c. 153, § 1, operative July 1, 1990.

§58-269. Executor or administrator - Powers.
The executor or administrator of an estate shall have the power, where otherwise authorized, to take control of, conduct, continue, or terminate any accounts of a deceased person on any social networking website, any microblogging or short message service website or any e-mail service websites.
Added by Laws 2010, c. 181, § 1, eff. Nov. 1, 2010.

§58-281. Inventory of estate.

A. A personal representative shall, unless ordered otherwise by the court, make and return to the court an inventory and/or an appraisement of the estate of the decedent, which has come to his possession or knowledge, designating the homestead and exempt personal property as provided by law, within two (2) months from the date of the order of his appointment. The time to file an inventory and/or appraisement may be extended by the court for good cause shown.

B. The personal representative may fulfill the appraisement requirement by stating his opinion of the value of the estate described in the inventory.

C. The court must order the inventory and/or an appraisement upon presentation of a written demand by any heir, devisee, legatee, a creditor having filed a claim, guardian, conservator, guardian ad litem, or other person having an interest in the estate. If so ordered, the appraisement shall be made by appraisers appointed, sworn and acting as provided by Section 282 of Title 58 of the Oklahoma Statutes.

R.L. 1910, § 6313. Amended by Laws 1953, p. 235, § 16; Laws 1980, c. 310, § 3, eff. Oct. 1, 1980; Laws 1985, c. 199, § 1, eff. Nov. 1, 1985; Laws 1998, c. 225, § 1, eff. Nov. 1, 1998.

§58-282. Appraisement.

To make the appraisement, the judge must appoint three disinterested persons, any two of whom may act, who are entitled to receive a reasonable compensation for their services, not to exceed Seventy-five Dollars ($75.00) per day, except upon order of the court. The appraisers must, with the inventory, file a verified account of their services and disbursements. If any part of the estate is in any other county, the same appraisers may proceed to view and appraise the same, or other appraisers in that county may be appointed to perform that duty, by the judge of the district court of the county in which the letters were issued, as he may deem best; and the like report must be made in each case direct to the district court of the county which issued the letters.

Amended by Laws 1988, c. 59, § 1, emerg. eff. March 25, 1988.

§58-282.1. Release of real estate tax liability - Request - Notice and hearing - Determination - Order.

If it appears there is no possibility that estate tax is due under the provisions of Sections 801 et seq. of Title 68, the executor or administrator of an estate or a surviving joint tenant or remainderman may request the district court to enter an order releasing estate tax liability. Such request may be included in a petition for distribution, in a petition to judicially determine the death of a joint tenant or life tenant or may be made by separate petition. Such request shall be set for hearing and notice thereof

shall be given by certified mail to the Tax Commission at least thirty (30) days before the hearing. The notice shall have attached thereto a statement, verified by the requesting party, containing the description of the property claimed not to be subject to taxation, the recipient thereof, their relationship to the deceased, and an estimate of the value of the property. The Tax Commission may appear at such hearing to object to the issuance of such order, or may file a written objection with the court. If the court finds that no possibility of tax liability exists under the provisions of Sections 801 et seq. of Title 68, it shall issue an order releasing estate tax liability as to the property described in the notice. Such order shall have the same legal effect as a release or waiver from the Tax Commission, and shall be a final order on the issue of estate tax liability of such estate as to the property described in the notice and order. If the court finds there is a possibility that tax liability exists, it shall refer such matter to the Tax Commission and the determination of tax liability or absence thereof shall proceed as in other cases. For deaths occurring on or after January 1, 2010, no release of estate tax liability is necessary pursuant to Section 5 of this act.
Added by Laws 1980, c. 286, § 6, eff. Oct. 1, 1980. Amended by Laws 2010, c. 436, § 1, eff. July 1, 2010.

§58-283. Oath of appraisers - Their duties.

Before proceeding to the execution of their duty, the appraisers must take and subscribe an oath, to be attached to the inventory, that they will truly, honestly and impartially appraise the property exhibited to them, according to the best of their knowledge and ability. They must then proceed to estimate and appraise the property; each article must be set down separately with the value thereof in dollars and cents, in figures, opposite to the articles respectively; the inventory must contain all of the estate of the decedent, real and personal, a statement of all debts, partnerships and other interests, bonds, mortgages, notes and other securities for the payment of money belonging to the decedent, specifying the name of the debtor in each security, the date, the sum originally payable, the endorsements thereon, if any, with their dates and the sum which, in the judgment of the appraisers, may be collected on each debts, interest or security.
R.L.1910, § 6315; Laws 1953, p. 235, § 18.

§58-284. Inventory to contain account of monies - Appraisement unnecessary, when.

The inventory must also contain an account of all monies belonging to the decedent, which have come to the hands of the executor or administrator, and if none, the fact must be so stated in the inventory. If the whole estate consists of money, there need not

be an appraisement, but an inventory must be made and returned as in other cases.
R.L.1910, § 6316.

§58-285. Executor liable for debt to decedent.

The naming of a person as executor does not thereby discharge him from any just claim which the testator has against him, but the claim must be included in the inventory, and the executor is liable for the same, as for so much money in his hands, when the debt or demand becomes due.
R.L.1910, § 6317.

§58-286. Bequest to executor or another debtor of his debt.

The discharge or bequest in a will of any debt or demand of the testator against the executor named, or any other person, is not valid against the creditors of the decedent, but is a specific bequest of the debt or demand. It must be included in the inventory, and, if necessary, applied in the payment of the debts. If not necessary for that purpose, it must be paid in the same manner and proportion as other specific legacies.
R.L.1910, § 6318.

§58-287. Return of inventory.

The inventory must be signed by the appraisers, and the executor or administrator must take and subscribe an oath, before an officer authorized to administer oaths, that the inventory contains a true statement of all the estate of the decedent which has come to his knowledge and possession, and particularly of all money belonging to the decedent, and of all just claims of the decedent against the affiant. The oath must be endorsed upon or annexed to the inventory.
R.L.1910, § 6319.

§58-288. Refusal to return inventory - Penalty - Revocation of letters.

If an executor or administrator neglects or refuses to return the inventory within the time prescribed, or within such further time, not exceeding two (2) months, as the judge shall, for a reasonable cause allow, the court may, upon notice, revoke the letters testamentary or of administration, and the executor or administrator is liable on his bond for any injury to the estate, or any person interested therein, arising from such failure.
R.L.1910, § 6320.

§58-289. Additional inventory.

Whenever property not mentioned in an inventory that is made and filed, comes to the possession or knowledge of an executor or administrator, he must cause the same to be appraised in the manner

prescribed in this article, and an inventory thereof to be returned within two (2) months after the discovery; and the making of such inventory may be enforced, after notice, by attachment or removal from office.
R.L.1910, § 6321.

§58-290. Rights and duties of representative - Possession of property - Homestead - Heirs, actions by.

The executor or administrator is entitled to the possession of all the real and personal estate of the decedent, and to receive the rents and profits of the real estate, except the realty and improvements thereon properly belonging to the homestead, and such personal property as is reserved by law to the widow and children of the decedent, or either of them until the estate is settled or delivered over by order of the district court to the heirs or devisees; and he must keep in good tenantable repair all houses, buildings, and fixtures thereon, which are under his control. The heirs or devisees may themselves, or jointly with the executor or administrator, maintain an action for the possession of the real estate, or for the purpose of quieting title to the same, against anyone except the executor or administrator.
R.L.1910, § 6322.

§58-292. Embezzlement before issue of letters - Civil liability - Exemption for financial institutions with valid security interests.

A. If any person, before the granting of letters testamentary or of administration, embezzles or alienates any of the monies, goods, chattel or effects of a decedent, the person is chargeable therewith, and liable to an action by the executor or administrator of the estate, for double the value of the property so embezzled or alienated, to be recovered for the benefit of the estate.

B. This section, however, shall not apply to any financial institution which has a valid security interest in the goods or chattel of the decedent and which has commenced or is about to commence repossession of the decedent’s goods and chattel after default. The financial institution shall use diligent efforts to notify the heirs and personal representative of the decedent, by certified mail return receipt requested, of the repossession. The notice to the heirs and personal representative shall contain the amount of the debt secured by the goods or chattel as well as the expenses reasonably incurred by the secured party in retaking, holding and preparing the collateral for disposition, in arranging for the sale, and, to the extent provided in the agreement and not prohibited by law, their reasonable attorneys’ fees and legal expenses. After receipt of the notice, the heirs and personal representative shall have twenty (20) days to redeem the goods or chattel by tendering to the secured party the full amount listed in

the notice. If there are no heirs and personal representative, or if the notice to the heirs and personal representative by certified mail is returned undelivered, then the secured party may dispose of the repossessed goods or chattel as soon as practicable.
R.L.1910, § 6324. Amended by Laws 2001, c. 220, § 1, eff. Nov. 1, 2001.

§58-293. Complaint on embezzlement - Citation.

If any executor, administrator, or other person interested in the estate of a decedent, complains to the district court, on oath, that any person is suspected to have concealed, embezzled, smuggled, conveyed away, or disposed of any monies, goods or chattels of the decedent, or has in his possession or knowledge, any deeds, conveyances, bonds, contracts, or other writings which contain evidences of, or tend to disclose the right, title, interest or claim of the decedent to any real or personal estate, or any claim or demand, or any lost will, the judge may cite such person to appear before the district court, and may examine him, on oath, upon the matter of such complaint, if he can be found in the state. But if cited from another county, and he appears and is found innocent, his necessary expenses must be allowed him out of the estate.
R.L.1910, § 6325.

§58-294. Trial and judgment.

If the person so cited refuses to appear and submit to an examination, or to answer such interrogatories as may be put to him touching the matters or the complaint, the court may, by warrant for that purpose, commit him to the county jail, there to remain in close custody until he submits to the order of the court or is discharged according to law. If, upon such examination, it appears that he has concealed, embezzled, smuggled, conveyed away, or disposed of any monies, goods or chattels of the decedent, or that he has in his possession or knowledge any deeds, conveyances, bonds, contracts or other writings, tending to disclose the right, title, interest or claim of the decedent to any real or personal estate, claim or demand, or any lost will of the decedent, the district court may make an order requiring such person to disclose his knowledge thereof to the executor or administrator, and may commit him to the county jail, there to remain until the order is complied with, or he is dischared according to law; and all such interrogatories and answers must be in writing, signed by the party examined, and filed in the district court. The order for such disclosure made upon such examination is prima facie evidence of the right of such administrator to such property in any action brought for the recovery thereof, and any judgment recovered therein by the administrator must be for double the value of the property as assessed by the court or jury in such action; or for return of the property and damages in addition thereto

equal to the value of such property. In addition to the examination of the party, witnesses may be produced and examined on either side.
R.L.1910, § 6326.

§58-295. Account by third person entrusted with property.

The judge of the district court, upon the complaint, on oath, of any executor oradministrator, may cite any person who has been entrusted with any part of the estate of the decedent, to appear before such court, and require him to render a full account, on oath, of any monies, goods, chattels, bonds, accounts, or other property or papers belonging to the estate which have come to his possession in trust for the executor or administrator, and of proceedings thereon; and if the person so cited refuses to appear and render such account, the court may proceed against him as provided in the preceding section.
R.L.1910, § 6327.

§58-311. Property to be delivered to the family - Homestead.

Upon the death of either husband or wife, the survivor may continue to possess and occupy the whole homestead, which shall not in any event be subject to administration proceedings, except as in this title provided, until it is otherwise disposed of according to law; and upon the death of both husband and wife the children may continue to possess and occupy the whole homestead until the youngest child becomes of age. The title to the land set apart for the homestead property shall pass, subject to the right of homestead, the same as other property of the decedent and shall be included in the decree of distribution. And in addition thereto, the following property must be immediately delivered by the executor or administrator to such surviving wife or husband, and child or children, and is not to be deemed assets, namely:

1. All family pictures.
2. A pew or other sitting in any house of worship.
3. A lot or lots in any burial ground.
4. The family Bible and all school books used by the family, and all other books used as part of the family library, not exceeding in value of One Hundred Dollars ($100.00).
5. All wearing apparel and clothing of the decedent and his family.
6. The provisions for the family necessary for one (1) year's supply, either provided or growing, or both; and fuel necessary for one (1) year.
7. All household and kitchen furniture, including stoves, beds, bedsteads and bedding.

No such property shall be liable for any prior debts or claims whatever.
R.L.1910, § 6328; Laws 1947, p. 345, § 1; Laws 1953, p. 236, § 19.

§58-312. Exempt property also allowed family.

In addition to the property mentioned in the preceding section, there shall also be allowed and set apart to the surviving wife or husband, or the minor child or children of the decedent, all such personal property or money as is exempt by law from levy and sale on execution or other final process from any court, to be, with the homestead, possessed and used by them, and no such property shall be liable for any prior debts or claims against the decedent, except, when there are no assets thereunto available, for the payment of the necessary expenses of his last illness, funeral charges and expenses of administration.

R.L.1910, § 6329; Laws 1953, p. 236, § 20.

§58-313. Homestead exempt from debt or liability.

The homestead is not subject to the payment of any debt or liability contracted by or existing against the husband and wife, or either of them, previous to or at the time of the death of such husband or wife, except such as are secured by lien thereon, as provided in the laws relating to homesteads.

R.L.1910, § 6330.

§58-314. Additional allowance for maintenance during settlement of estate.

If the amount set apart as aforesaid be less than that allowed, and insufficient for the support of the surviving spouse and children, or either, or, if there be no such personal property to be set apart, and if there be other estate of the decedent, the court may in its discretion make such reasonable allowance out of the estate as shall be necessary for the maintenance of the family, according to their circumstances during the progress of the settlement of the estate, which, in case of an insolvent estate, must not be longer than one (1) year after granting letters testamentary, or of administration.

R.L.1910, § 6331; Laws 1925, c. 124, p. 176, § 1.

§58-315. Allowance a preferred claim.

Any allowance made by the court in accordance with the provisions of this article must be paid in preference to all other charges, except funeral charges or expenses of administration, and any such allowance, whenever made, may, in the discretion of the court, take effect from the death of the decedent.

R.L.1910, § 6332.

§58-316. Who entitled to property set apart.

A. When personal property is set apart for the use of the family, in accordance with the provisions of this article, if the

decedent left a widow or surviving husband, and no minor child, such property is the property of the widow or surviving husband. If the decedent left also a minor child, the one-half (1/2) of such property shall belong to the widow or surviving husband, and the other half to the minor child; and if the decedent left more than one minor child, the one-third (1/3) of such property shall belong to the widow or surviving husband and the remainder in equal shares to the minor children, and if the decedent left no widow or surviving husband, such property shall belong to the minor child, or, if more than one minor child, to them in equal parts. This subsection shall not apply to the estate of a decedent who dies on or after July 1, 1985.

B. This subsection shall apply to the estate of a decedent who dies on or after July 1, 1985. When personal property is set apart for the use of the family, in accordance with the provisions of Sections 311 through 315 of this title, if the decedent leaves a surviving spouse, and no minor child, such property is the property of the surviving spouse. If the decedent leaves a surviving spouse and a minor child or children, one-half (1/2) of such property shall belong to the surviving spouse and the remainder to the minor child, or if more than one minor child, to them in equal parts. If the decedent leaves no surviving spouse, such property shall belong to the minor child, or, if more than one minor child, to them in equal parts.

Amended by Laws 1984, c. 233, § 1, eff. July 1, 1985.

§58-318. When widow has independent income.

If the widow has a maintenance derived from her own property equal to the portion set apart to her by the preceding sections of this article, the whole property so set apart, other than her right in the homestead, must go to the minor children.

R.L.1910, § 6335.

§58-331. Notice to creditors to present claims.

Every personal representative must, unless the notice has been given by a special administrator as provided in Section 215 of this title, within two (2) months after the issuance of his letters, file notice to the creditors of the decedent stating that claims against said deceased will be forever barred unless presented to such personal representative, at the personal representative's place of residence or business, or at the place of business of the attorney for the personal representative, as specified in the notice, by the presentment date stated in the notice. The presentment date shall be a date certain which is at least two (2) months following the date said notice is filed, and the first publication of said notice shall appear on or before the tenth day after the filing of said notice. If the presentment date stated is a Saturday, Sunday, or legal holiday, the presentment date shall be deemed to be the next

succeeding day which is not a Saturday, Sunday, or legal holiday. The notice to creditors shall be given by publication in some newspaper in the county in which the probate is filed once each week for two (2) consecutive weeks, and by mail to all known creditors of the decedent at their respective last-known available addresses, in accordance with Section 6 of this act. The notice shall be substantially in the following form:

All creditors having claims against A B, deceased, are required to present the same, with a description of all security interests and other collateral (if any) held by each creditor with respect to such claim, to the named personal representative at _____ (address of the personal representative or attorney for the personal representative) on or before the following presentment date: _____, or the same will be forever barred.

C D, Personal Representative
for the Estate of A B, deceased.
or
E F, Attorney for Personal Representative
Dated _____, 19__.

Provided, that in all proceedings wherein the decedent has been dead for a period of more than five (5) years prior to the commencement of a probate proceeding for said decedent's estate, or where regular proceedings have been dispensed with pursuant to Section 241 of this title, the presentment date may be stated to be a date certain (subject to the above provisions regarding the stating of the presentment date as a Saturday, Sunday, or legal holiday) which is at least one (1) month following the date said notice is filed with the district court clerk for the county in which the probate is pending, and the first publication of said notice shall appear on or before the tenth day after the filing of said notice with said district court clerk.

Amended by Laws 1988, c. 228, § 4, emerg. eff. June 22, 1988.

§58-331.1. Identification of creditors.

A. As used in this act, "known creditors", and related or similar references shall mean those creditors of the decedent actually known to the personal representative or reasonably ascertainable by the personal representative as of the date notice to creditors is filed. "Reasonably ascertainable creditors" shall be those whose identities, last-known addresses and claims can be determined by reasonably diligent efforts of the personal representative. If reasonable under the circumstances, such efforts shall include the personal representative's conducting a search after the decedent's death and prior to the filing of the notice to creditors, of the personal effects of the decedent.

B. The filing of the affidavit provided for in Section 332 of Title 58 of the Oklahoma Statutes shall constitute an affirmation by

the personal representative that reasonably diligent efforts have been made by the personal representative to determine the identities, last-known addresses and claims of the decedent's creditors in accordance with this section.

C. As used in this act, "probate", and related or similar references, include both probate and administration proceedings. Added by Laws 1988, c. 228, § 5, emerg. eff. June 22, 1988.

§58-331.2. Mailing of notice to creditors - Personal delivery of notice.

After notice is given as required by Section 331 of this title, an affidavit of mailing and, if applicable, of personal delivery, and an affidavit of publication must be filed with the district court clerk. The affidavit of mailing, and, if applicable, of personal delivery, shall be made by the personal representative and shall state words to the effect that the personal representative personally, or by and through the personal representative's attorney, mailed notice by first-class mail to all creditors of the decedent known to the personal representative on the date said notice was filed with the district court clerk for the county in which the probate is pending. Said affidavit shall also state the identities and last-known addresses of such creditors and the date said notice was mailed or delivered. If the decedent had no known creditors or had one or more creditors whose addresses were not known to the personal representative as of the date said notice was filed, there shall be filed an affidavit of the personal representative to the effect that nomailing is required and the reasons therefor. Added by Laws 1988, c. 228, § 6, emerg. eff. June 22, 1988.

§58-332. Affidavit of mailing or personal delivery.

After notice is given as required by Section 331 of this title, an affidavit of mailing and, if applicable, of personal delivery, and an affidavit of publication must be filed with the district court clerk. The affidavit of mailing, and, if applicable, of personal delivery, shall be made by the personal representative and shall state words to the effect that the personal representative personally, or by and through the personal representative's attorney, mailed notice by first-class mail to all creditors of the decedent known to the personal representative on the date said notice was filed with the district court clerk for the county in which the probate is pending. Said affidavit shall also state the identities and last-known addresses of such creditors and the date said notice was mailed or delivered. If the decedent had no known creditors or had one or more creditors whose addresses were not known to the personal representative as of the date said notice was filed, there shall be filed an affidavit of the personal representative to the effect that nomailing is required and the reasons therefor.

Amended by Laws 1988, c. 228, § 7, emerg. eff. June 22, 1988.

§58-333. Bar of claims not presented in time - Exceptions.

All claims arising upon contracts entered into prior to the decedent's death, whether the same be due, not due or contingent, must be presented on or before the presentment date as provided in the notice, and any claim not so presented is barred forever; provided, however, that when it is made to appear by the affidavit of the claimant, to the satisfaction of the personal representative and the judge of the district court, as duly noted on the claim, that the claimant had no notice by reason of being out of the state and that a copy of the notice to creditors was not mailed to said claimant, the claim may be presented at any time before a final decree of distribution is entered; provided, further, that nothing in this section, nor in this chapter contained, shall be construed to prohibit the right or limit the time of foreclosure of mortgages upon real property of decedents, but every such mortgage may be foreclosed within the time and in the mode prescribed in civil procedure, except that no balance of the debt secured by such mortgage remaining unpaid after foreclosure shall be a claim against the estate, unless such debt was presented as required by this code.

Amended by Laws 1988, c. 228, § 8, emerg. eff. June 22, 1988; Laws 1991, c. 148, § 2, eff. Sept. 1, 1991.

§58-334. Signing of claim - Contents of claim - Proof of claim.

Every claim shall be signed by the claimant or the claimant's authorized representative. Every claim which is due when presented to the personal representative shall state the exact amount claimed and shall state with reasonable particularity the nature and source of the claim, and if the claim is secured by a security interest, mortgage or other lien which has been filed or recorded according to law, a brief description of such interest, mortgage or lien and of the collateral covered thereby shall be stated in the claim. If the claim be not due when presented, or be contingent, the particulars of such claim must be stated. The personal representative may require satisfactory vouchers or proofs or other evidence to be produced in support of the claim. If the estate is insolvent, no greater rate of interest shall be allowed upon any claim, after the first publication of notice to creditors, than is allowed by law on judgments obtained in the district court.

Amended by Laws 1988, c. 228, § 9, emerg. eff. June 22, 1988.

§58-335. Claims paid when not proved and allowed.

When it shall appear upon the settlement of the accounts of any personal representative that a debt or debts of the deceased have been paid without the presentment of a claim pursuant to Section 334 of this title, and it shall be proven by competent evidence to the

satisfaction of the district court that each such debt was justly due but for the claimant's failure to properly present a claim, was paid in good faith, that the amount paid was the true amount of each such indebtedness over and above all payments or setoffs, and that the estate is solvent, it shall be the duty of the said court to allow the said sums so paid in the settlement of said accounts, and the payment of any such debt shall not constitute a breach of fiduciary duty or responsibility by the personal representative.
Amended by Laws 1988, c. 228, § 10, emerg. eff. June 22, 1988.

§58-336. Claim by district judge - Proceedings.

The judge of the district court may present a claim against the estate of a decedent, for allowance, to the executor or administrator thereof; and if the executor or administrator allows or rejects the claim, he must, in writing, present the same to the county clerk of the county, who shall thereupon be substituted in the settlement of said estate in place of the judge of the district court, as provided by law, and the judge of the district court presenting such claim, in case of its rejection by the executor or administrator, or by such county clerk, acting as judge, has the same right to sue in a proper court for its recovery as other persons have when their claims against an estate are rejected.
R.L.1910, § 6341.

§58-337. Allowance and rejection of claims.

A. When a claim is presented to the personal representative, the personal representative must endorse thereon allowance or rejection, with the date thereof. If the personal representative allows the claim, it must be presented, with the date of such presentment noted thereon to the judge for approval by the judge, who must, in the same manner, endorse upon it allowance or rejection.

B. If the personal representative rejects the claim, in whole or in part, the personal representative shall mail a notice of such rejection to the creditor, by regular, first-class mail, to the creditor's address last-known to the personal representative, not later than five (5) days following the date of such partial or total rejection.

C. 1. If the personal representative refuses or neglects to endorse such allowance or rejection for thirty (30) days after the claim has been presented to him, such refusal or neglect is equivalent to a rejection on the thirtieth day after presentment of the claim to the personal representative, regardless of the date on which the claim may have been actually rejected in whole or in part.

2. If the judge refuses or neglects to endorse allowance or rejection on a claim, allowed by the personal representative, within thirty (30) days after the claim is presented to the judge, such

refusal or neglect is equivalent to a rejection on the thirtieth day after presentment of the claim to the judge.

D. If the claim be presented to the personal representative before the expiration of the time limited for the presentation of claims, the same is presented in time, though acted upon by the personal representative and/or by the judge after the expiration of such time.

E. A claim presented to the personal representative at the personal representative's place of residence or business or at the personal representative's attorney's place of business prior to first publication of the notice shall be considered validly presented, shall be deemed to have been presented on the date of first publication of the notice and shall not be acted upon by the personal representative prior to such date, and the personal representative shall not be required to give notice to such creditor by mail, other than notice of rejection if the claim is rejected in whole or in part to the creditor who presented such claim.

F. For estate proceedings commenced after October 31, 2008, the following provisions shall apply:

1. If the personal representative rejects a claim, in whole or in part, but refuses or neglects to mail a notice of the rejection not later than five (5) days following the date of partial or total rejection as required in paragraph B of this section, the forty-five-day time period for limitation of actions as specified in Section 339 of this title shall not begin until the personal representative has mailed notice of rejection to the creditor by regular, first-class mail to the creditor’s last-known address. In no event shall such limitation extend past the date that a petition for final accounting is filed; and

2. If the treatment of any claim by the personal representative or judge is deemed equivalent to a rejection, as described in paragraph 1 or 2 of subsection C of this section, the forty-five-day time period for limitation of actions specified in Section 339 of this title shall not begin until the personal representative has mailed notice of the deemed rejection to the creditor by regular, first-class mail to the creditor’s last-known address. In no event shall such limitation extend past the date that a petition for final accounting is filed.

R.L. 1910, § 6342. Amended by Laws 1965, c. 206, § 1; Laws 1988, c. 228, § 11, emerg. eff. June 22, 1988; Laws 2008, c. 326, § 1, eff. Nov. 1, 2008.

§58-338. Claims filed in court after allowance.

Every claim allowed by the personal representative, and approved by the judge, must, within thirty (30) days after approval by the judge, be filed in the district court and ranked among the acknowledged debts of the estate, to be paid in due course of

administration. If the claimant has left any original voucher in the hands of the personal representative, or suffered the same to be filed in court, he may withdraw the same when a copy of the same has been already, or is then, attached to his claim.
Amended by Laws 1988, c. 228, § 12, emerg. eff. June 22, 1988.

§58-339. Suit on rejected claim

When a claim is rejected, either by the executor or administrator, or the judge of the district court, the holder may bring suit as an ancillary proceeding in the probate case or as an independent action, according to its amount, against the executor or administrator. Any proceeding or action shall be filed within forty-five (45) days after the date the claim was rejected, if it be then due, or within two (2) months after it becomes due; otherwise the claim is forever barred. If suit be brought as an ancillary proceeding, no process need be issued for service on the executor or administrator and pleadings and practice therein shall be the same as if an independent action had been brought to recover upon the claim.
R.L.1910, § 6344; Laws 1976, c. 140, § 1, eff. Oct. 1, 1976.

§58-340. Claims barred by statute not allowed - Hearing before judge.

No claim must be allowed by the executor or administrator, or by the judge, which is barred by the statute of limitations. When a claim is presented to the judge for his allowance, he may, in his discretion, examine the claimant and others, on oath, and hear any other legal evidence touching the validity of the claim.
R.L.1910, § 6345.

§58-341. Claim must be presented before suit.

No holder of any claim against an estate shall maintain any action thereon, unless the claim is first presented to the executor or administrator.
R.L.1910, § 6346.

§58-342. Vacancy in administration not included in limitation.

The time during which there shall be a vacancy in the administration, must not be included in any limitation herein prescribed.
R.L.1910, § 6347.

§58-344. Partial allowance of claim.

Whenever any claim is presented to an executor or administrator, or to the judge of the district court, and he is willing to allow the same in part, he must state in his endorsement the amount he is willing to allow. If the creditor refuse to accept the amount allowed in satisfaction of his claim, he shall recover no costs in an

action therefor, brought against the executor or administrator, unless he recovers a greater amount than that offered to be allowed.
R.L.1910, § 6349.

§58-345. Judgment only establishes claim.

A judgment rendered against an executor or administrator, in the district court or before a magistrate, upon any claim for money against the estate of his testator or intestate, only establishes the claim in the same manner as if it had been allowed by the executor or administrator, and the judge of the district court, and the judgment must be that the executor or administrator pay, in due course of administration, the amount ascertained to be due. A certified transcript of the judgment must be filed in the district court. No execution must issue upon such judgment, nor shall it create any lien upon the property of the estate, or give to the judgment creditor any priority of payment.
R.L.1910, § 6350.

§58-346. Judgments before death, how collected.

When any judgment has been rendered for or against the testator or intestate in his lifetime, no execution shall issue thereon after his death, except:

1. In case of the death of the judgment creditor, upon the application of his executor or administrator, or successor in interests.

2. In case of the death of the judgment debtor, if the judgment be for the recovery of real or personal property, or the enforcement of a lien thereon.

A judgment against the decedent for the recovery of money, must be presented to the executor or administrator, like any other claim. If the execution is actually levied upon any property of the decedent before his death, the same may be sold for the satisfaction thereof, and the officer making the sale must account to the executor or administrator for any surplus in his hands.
R.L.1910, § 6351.

§58-347. Death between verdict and judgment.

A judgment rendered against a decedent, dying after verdict or decision on an issue of fact, but before judgment is rendered thereon, is not a lien on the real property of the decedent, but is payable in due course of administration.
R.L.1910, § 6352.

§58-348. Reference of claim to third person.

If the executor or administrator doubts the correctness of any claim presented to him, he may enter into an agreement, in writing, with the claimant, to refer the matter in controversy to some

disinterested person, to be approved by the judge of the county court. Upon filing the agreement, and approval of the judge of the county court, in the office of the clerk of the district court for the county or judicial subdivision in which the letters testamentary or of administration were granted, the clerk must, either in vacation or in term, enter a minute of the order referring the matter in controversy to the person so selected; or if the parties consent, a reference may be had in the county court; and the report of the referee, if confirmed, establishes or rejects the claim, the same as if it had been allowed or rejected by the executor or administrator and the county judge.
R.L.1910, § 6353.

§58-349. Duties of the referee - Proceedings.

The referee must hear and determine the matter, and make his report thereon to the court in which his appointment is entered. The same proceedings shall be had in all respects, and the referee shall have the same powers, be entitled to the same compensation, and subject to the same control as in other cases of reference. The court may remove the referee, appoint another in his place, set aside or confirm his report, and adjudge costs, as in actions against executors or administrators and the judgment of the court thereon shall be as valid and effectual, in all respects, as if the same had been rendered in a suit commenced by ordinary process.
R.L.1910, § 6354.

§58-350. Costs against representative.

When a judgment is recovered, with costs, against any executor or administrator, he shall be individually liable for such costs, but they must be allowed him in his administration accounts, unless it appears that the suit or proceedings in which the costs were taxed was prosecuted or defended without just cause.
R.L.1910, § 6355.

§58-351. Claim by personal representative.

If the personal representative is a creditor of the decedent, his claim must be presented for allowance or rejection to the judge of the district court not later than the presentment date as provided in the notice, and its allowance by the judge is sufficient evidence of its correctness, and it must be paid as other claims, in due course of administration. If, however, the judge rejects the claim, action thereon may be had against the estate by the claimant, and summons must be served upon the judge of the district court, who may appoint an attorney at the expense of the estate, to defend the action. If the claimant recover no judgment, he must pay all costs, including defendant's attorney's fee.
Amended by Laws 1988, c. 228, § 13, emerg. eff. June 22, 1988.

§58-352. Neglect to give notice to creditors.

If an executor or administrator neglects for two (2) months after his appointment to give notice to creditors, as prescribed by this article, the court must revoke his letters, and appoint some other person in his stead, equally or next in order, entitled to the appointment, unless good cause to the contrary be shown.
R.L.1910, § 6357; Laws 1969, c. 302, § 10, eff. Jan. 1, 1970.

§58-353. Statement of claims.

At the same term at which he is required to return his inventory, the executor or administrator must also return a statement of all claims against the estate which have been presented to him, if so required by the court; and from term to term thereafter he must present a statement of claims subsequently presented to him. In all such statements he must designate the names of the creditors, the nature of each claim, when it became due or will become due, and whether it was allowed or rejected by him.
R.L.1910, § 6358.

§58-354. Payment of interest-bearing claims not due.

If there be any debt of the decedent bearing interest, whether presented or not, the executor or administrator may, by order of the district court, pay the amount then accumulated, and unpaid, or any part thereof, at any time when there are sufficient funds properly applicable thereto, whether said claim be then due or not; and interest shall thereupon cease to accrue upon the amount so paid.
R.L.1910, § 6359.

§58-380. Short title.

This act shall be known and may be cited as the Probate Reform Act of 1979.
Laws 1979, c. 258, § 1, eff. Oct. 1, 1979.

§58-381. Property not exempt may be sold for debt.

All the property of a decedent, except as otherwise provided for the homestead and personal property set apart for the surviving wife or husband and minor child or children, shall be chargeable with the payment of the debts of the deceased, the expenses of the administration, and the allowance to the family. And the property, personal and real, may be sold as the court may direct, in the manner hereinafter prescribed. There shall be no priority as between personal and real property for the above purposes.
R.L.1910, § 6360.

§58-382. Sales - Reports - Confirmation by court.

Except as otherwise hereinafter provided, all sales must be reported under oath and confirmed by the court, before the title to the property sold passes.
R.L.1910, § 6361; Laws 1979, c. 258, § 2.

§58-383. Petition for orders for sale

All petitions for orders of sale must be in writing, setting forth the facts showing the sale to be supported by good cause, and upon the hearing, any person interested in the estate may file his written objections, which must be heard and determined. A failure to set forth the facts showing the sale to be supported by good cause will not invalidate the subsequent proceedings, if the defect be supplied by the proofs at the hearing, and the general facts showing good cause be stated in the order directing the sale.
R.L.1910, § 6362; Laws 1976, c. 139, § 1, eff. Oct. 1, 1976.

§58-384. Order of sale - Requirements.

When it appears to the court that there is good cause although the assets of the estate in personalty are sufficient to satisfy all obligations of the estate or that the estate is insolvent, or that it will require a sale of all the property of the estate of every character, chargeable therewith, to pay the family allowance, expenses of administration and debts, there need be but one petition filed, but one order of sale made and but one sale had, except in case of property, which may be sold as provided in Section 387 of this title. The district court, when a petition for the sale of any property, for any of the purposes herein named, is presented, must inquire fully into the probable amount required to make all such payments, and if there be no more estate chargeable therewith than sufficient to pay the same, may require but one proceeding for the sale of the entire available estate. In such case the petition must set forth all the facts required by Section 412 of this title. When the sale is sought, although assets of the estate in personalty are sufficient to satisfy all obligations of the estate, the court may allow the sale if satisfied that it is in the best interest of the estate.
R.L.1910, § 6363; Laws 1953, p. 237, § 23; Laws 1976, c. 139, § 2, eff. Oct. 1, 1976; Laws 1979, c. 258, § 3.

§58-385. Authority to renew or extend mortgage or execute new mortgage.

A. 1. The district court may, upon verified petition supported by sufficient evidence showing that the best interest of the owners of the real estate affected requires it, by order, grant authority to the administrators or executors of the estate of deceased persons or to the guardians of the estates of minors or incapacitated persons, to enter into contracts for and to renew or extend the time

of payment of any mortgage, lien, or obligation which may by operation of law become a lien upon the real estate of the estate or ward, including homestead, or to execute a new mortgage for the purpose of paying off and securing the release of any such mortgage, lien, or obligation which may by operation of law become a lien; provided, in no case shall such authority be granted to mortgage, or contract for the renewal or extension of any mortgage, for an amount greater than may be necessary to pay an obligation which may by operation of law become a lien, or liens existing at the time an order is granted including principal, interest, taxes, and reasonable expenses as may be incident to perfecting the renewal, extension, or new mortgage.

2. The court, in its discretion, may grant authority to include in a renewal or new mortgage an amount sufficient to pay for necessary repairs on real estate when repairs are necessary for the preservation of the property.

B. 1. The district court may, upon verified petition supported by sufficient evidence showing that the best interest of the affected owners of the real estate requires it, by order, grant authority to the guardians of the estates of incapacitated persons to execute a new mortgage known as a home equity conversion mortgage or rising debt loan for the purpose of meeting the requirements for the health and safety of the ward, obtaining necessary services to meet those requirements, and protecting the rights of the ward so as to maintain the ward in his or her residence; provided, in no case shall authority be granted to mortgage or contract for the renewal or extension of any mortgage for an amount greater than two-thirds (2/3) of the appraised value of the real property of the ward.

2. The court, in its discretion, may grant authority to include in a renewal or new mortgage an amount sufficient to pay for necessary repairs on real estate when repairs are necessary for the preservation of the property.

R.L.1910, § 6364. Amended by Laws 1913, c. 66, p. 103, § 1; Laws 1915, c. 11, § 1; Laws 1935, p. 7, § 1; Laws 1953, p. 237, § 24; Laws 1968, c. 154, § 1, operative Jan. 13, 1969; Laws 1998, c. 132, § 1, eff. Nov. 1, 1998.

§58-385.1. Verified petition by guardian - Contents - Limitations.

To obtain an order for mortgaging such real estate for the purpose and under the provisions hereof, the guardian must present a verified petition to the district court or to the judge thereof, setting forth a description of the property, real and personal, on hand and undisposed of, the legally established lien or the obligation which may by operation of law become a lien; the amount of the lien or the amount of the obligation which may by operation of law become a lien, the names and addresses of all parties interested in the estate of the minor, incompetent or mentally ill person, and

the specific reasons why it will be to the best interest of the said estate to mortgage, rather than sell such real estate, or a part thereof.

Such authority shall not be given or order made therefor, and no mortgage on any real estate shall be made, given, executed or delivered under the provisions hereof, for an amount in excess of two-thirds (2/3) of the appraised value thereof, as established by an appraisal made by three disinterested citizens of the county within one (1) year of the time of making such order to mortgage.
Laws 1968, c. 154, § 2, operative Jan. 13, 1969.

§58-385.2. Hearing on guardian's petition - Notice.

If it appears to the court, from such verified petition of the guardian, and the evidence that it is necessary and for the best interest of said estate to mortgage the whole of such real estate or any part thereof, including the homestead, for the purposes and reasons herein set forth, the court shall by order set a time for hearing the petition and shall give and issue notice thereof and cause copies of such notice to be mailed to each of the persons interested in the estate of said minor, incompetent or mentally ill person, at their last-known place of residence, at least ten (10) days prior to such hearing, and shall cause notice thereof to be published once each week for two (2) consecutive weeks in a newspaper in the county where said hearing is to be held prior to such hearing. The notice shall contain a description of the property sought to be mortgaged, the amount of the proposed mortgage and the purpose or purposes therefor.
Laws 1968, c. 154, § 3; Laws 1969, c. 302, § 11, eff. Jan. 1, 1970.

§58-385.3. Order for guardian to borrow money, execute mortgage, etc. - Additional bond - Approval.

Upon such hearing, if the court is satisfied that it is for the best interest of the estate and to the owners of such real estate he may make an order authorizing the guardian to borrow money, make, execute and deliver a note or notes therefor and to make, execute and deliver a real estate mortgage securing the same, in such amount, at such rate of interest and upon such terms and conditions as the court may prescribe and may, if he deems it advisable require an additional bond as in the case of the sale of real estate. After the order of the court authorizing the same is made, the guardian may make and execute the note or notes and mortgage and shall then present the same to the district court or judge thereof, who shall examine the same, and if they appear to be in conformity to law and the order of the court, the judge of the district court shall endorse his approval on the face of the mortgage. Thereafter the guardian may proceed to close the loan by receiving the funds so borrowed and by delivering the note or notes and mortgage. All such notes and mortgages shall

be valid and binding obligations against the estate and against the real estate so mortgaged in accordance with the terms and conditions of such mortgage.
Laws 1968, c. 154, § 4, operative Jan. 13, 1969.

§58-385a. Borrowing money - Mortgage of estate realty - Grant of authority by district court.

In addition to the grounds and reasons now set forth and provided by law for which the district court may grant authority to administrators or executors of the estates of deceased persons to mortgage, by contract, renewal or new mortgage, the real estate of such estates, the district court may, upon verified petition supported by sufficient evidence showing that the best interest of the owners of the real estate belonging to any such estate requires it, by an Order, grant authority to such administrators or executors to mortgage the real estate, or any part thereof, except the homestead, belonging to an estate of a deceased person for the purpose of borrowing or securing money and funds with which to pay off and discharge outstanding and unpaid debts against the estate of such deceased persons, legally ordered and unpaid family allowance and expenses and charges of administration, whether said property has or has not before that time been mortgaged by the decedent or by the administrator or executor of his estate.
Laws 1937, p. 2, § 1.

§58-385b. Petition - Contents - Time for filing - Limitations.

To obtain an order for mortgaging such real estate for the purpose and under the provisions hereof, the administrator or executor must present a verified petition to the district court, or to the judge thereof, setting forth a description of the property, real and personal, on hand and undisposed of, the legally established debts outstanding and unpaid, the legally ordered family allowance due and unpaid, if any, the amount of the charges and expenses of administration, the names and addresses of the heirs, devisees and legatees of the decedent, and the specific reason why it will be to the best interest of said estate to mortgage, rather than to sell, such real estate or a part thereof. Such petition to mortgage shall not be filed and the authority therefor shall not be given or order therefor made, until after the time within which to present claims has expired. Such authority shall not be given or order made therefor, and no mortgage on any real estate shall be made, given, executed or delivered under the provisions hereof, for an amount in excess of two-thirds (2/3) of the appraised value thereof, as established by an appraisal made by three disinterested citizens of the county within one (1) year of the time of making such order to mortgage.
Laws 1937, p. 3, § 2; Laws 1953, p. 237, § 25.

§58-385c. Hearing on petition - Notice.

If it appears to the court, from such verified petition and the evidence that it is necessary and for the best interest of said estate to mortgage the whole of such real estate or any part thereof, except the homestead, for the purposes and reasons herein set forth, the county judge of the district court shall by order set a time for hearing the petition and shall give and issue notice thereof and cause copies of such notice to be mailed to each of the heirs at law, devisees, and legatees of the decedent, whose addresses are known, at least fifteen (15) days prior to such hearing, and shall cause notice thereof to be published in a newspaper of general circulation in the county where said hearing is to be held for two (2) weeks in a weekly paper, or ten (10) days in a daily paper, prior to such hearing. The notice shall contain a description of the property sought to be mortgaged, the amount of the proposed mortgage and the purpose or purposes therefor.

Laws 1937, p. 3, § 3.

§58-385d. Order to borrow money and mortgage realty - Execution of notes and mortgage - Additional bond.

Upon such hearing, if the court is satisfied that it is for the best interest of the estate and to the owners of such real estate he may make an order authorizing the administrator or executor to borrow money, make, execute and deliver a note or notes therefor and to make, execute and deliver a real estate mortgage securing the same, in such amount, at such rate of interest and upon such terms and conditions as the court may prescribe and may, if he deems it advisable require an additional bond as in the case of the sale of real estate. After the order of the court authorizing the same is made, the administrator or executor may make and execute the note or notes and mortgage and shall then present the same to the district court who shall examine the same, and if they appear to be in conformity to law and the order of the court, the judge of the district court shall endorse his approval on the face of the mortgage. Thereafter the administrator or executor may proceed to close the loan by receiving the funds so borrowed and by delivering the note or notes and mortgage. All such notes and mortgages shall be valid and binding obligations against the estate and against the real estate so mortgaged in accordance with the terms and conditions of such mortgage.

Laws 1937, p. 3, § 4.

§58-386. Notice of hearing on petition.

Upon the filing of the petition mentioned in Section 385 of this title, the judge of the district court shall set a time for the hearing of the same, and the administrator, executor or guardian

shall cause notice thereof to be made by publication in a newspaper published, or of general circulation, in the county wherein such hearing is to be had. Said notice shall contain a description of the real estate sought to be mortgaged, and shall be published two (2) weeks in a weekly paper, or ten (10) days in a daily paper, prior to such hearing.
R.L.1910, § 6365; Laws 1913, c. 66, p. 104, § 2; Laws 1953, p. 238, § 26.

§58-387. What personal property may be sold without notice.

A. At any time after receiving letters, the executor, administrator, or special administrator may sell perishable and other personal property likely to depreciate in value, or which will incur loss or expense by being kept, and so much other personal property as may be necessary to pay the allowance made to the family of the decedent without obtaining prior court authorization for sale, without filing a return of sale, and without obtaining court confirmation of sale. The sale may be made without notice. Title to such property shall pass to the purchaser thereof without approval or confirmation by the court of such sale.

B. Any sale of property made by an executor, administrator or special administrator of the property of a decedent pursuant to this section shall be reported in the accounting next filed by such executor, administrator or special administrator after the making of the sale. If the court determines the property sold was not perishable or was not otherwise likely to depreciate in value or would not have caused the estate of the decedent loss or expense if kept, or was not necessary to pay the allowance made to the family of the decedent, the executor, administrator or special administrator who made such sale shall not be surcharged or otherwise held liable with respect to such sale if he made a reasonable determination in good faith that the property sold was perishable, was otherwise likely to depreciate in value, would have caused the estate of the decedent to incur loss or expense if kept or the sale was necessary to pay the allowance made to the family of the decedent.
R.L. 1910, § 6366; Laws 1953, p. 238, § 27; Laws 1979, c. 258, § 4, eff. Oct. 1, 1979; Laws 1992, c. 395, § 8, eff. Sept. 1, 1992.

§58-388. Sale of personalty.

After appointment and qualification, the executor or administrator may apply for an order to sell personal property at either public auction or private sale. Upon filing his petition, notice must be mailed to all heirs, legatees and devisees whose addresses are known not less than ten (10) days prior to the hearing of the application. He may also make a similar application, from time to time, so long as any personal property remains in his hands.

R.L.1910, § 6367; Laws 1969, c. 302, § 12, eff. Jan. 1, 1970; Laws 1979, c. 258, § 5, eff. Oct. 1, 1979.

§58-389. Partnership interests, etc., may be sold.

Partnership interests, or interests belonging to any estate by virtue of any partnership formerly existing, interest in personal property pledged, and choses in action, may be sold in the same manner as other personal property, when it appears to be for the best interest of the estate. Before confirming the sale of any partnership interest, whether made to the surviving partner or to any other person, the judge must carefully inquire into the condition of the partnership affairs, and must examine the surviving partner, if in the county and able to be present in court.
R.L.1910, § 6368.

§58-391.1. Notice of sale of personalty at public auction - Place of sale - Return of proceedings - Hearing.

Notice of the sale of personal property at public auction shall be published one time at least ten (10) days prior to said sale, and a copy of the notice of said sale shall be mailed to all heirs, legatees and devisees whose addresses are known at least ten (10) days prior to said sale. Said notice shall contain a brief description of the personal property to be sold and the time and place of the sale. Public auction of such personal property shall be made either at the courthouse door, at the site of the personal property, at the residence of the decedent, or at some other public place, but no sale shall be made of any personal property which is not present at the time of the sale unless the court otherwise orders. The executor or administrator, after making a sale of personal property at public auction shall, except as provided in Section 387 of this title, file a sworn return of his proceedings in the court. The court shall fix the date for hearing such return and notice of said hearing shall be published one time at least ten (10) days prior to said hearing in the newspaper in the county and a copy of said notice shall be mailed to all heirs, legatees and devisees of the decedent whose addresses are known at least ten (10) days prior to said hearing. Said notice shall briefly describe the property sold, the sum for which it was sold, the name of the purchaser and shall refer to the return for further particulars. Upon hearing, the court shall examine the return and witnesses in relation to the same and on proper showing the court shall approve the sale. If such sale proceedings were unfair, or the sum bid disproportionate to the value of said personal property, the court shall vacate the sale and direct another to be had for which public notice must be given and the sale in all respects conducted as if no previous sale had taken place.
Laws 1979, c. 258, § 6, eff. Oct. 1, 1979; Laws 1980, c. 310, § 8, eff. Oct. 1, 1980.

§58-391.2. Notice of sale of personalty at private sale - Place of sale - Return of proceedings - Hearing.

Notice of the sale of personal property at private sale shall be published one time at least ten (10) days prior to said sale and a copy of the notice of said sale shall be mailed to all heirs, legatees and devisees whose addresses are known at least ten (10) days prior to said sale. Said notice shall contain a brief description of the personal property to be sold and shall set a date on or after which the sale will be made and the place where offers or bids will be received. The executor or administrator after making a sale of personal property at private sale shall, except as provided in Section 387 of this title, file a sworn return of his proceedings in the court. The court shall fix the date for hearing such return and notice of said hearing shall be published one time at least ten (10) days prior to said hearing in the newspaper in the county and a copy of said notice shall be mailed to all heirs, legatees and devisees of the decedent whose addresses are known at least ten (10) days prior to said hearing. Said notice shall briefly describe the property sold, the sum for which it was sold, and shall refer to the return for further particulars. Upon hearing, the court shall examine the return and witnesses in relation to the same and on proper showing the court shall approve the sale. If such sale proceedings were unfair, or the sum bid disproportionate to the value of said personal property, the court shall vacate the sale and direct another to be had for which public notice must be given and the sale in all respects conducted as if no previous sale had taken place. Laws 1979, c. 258, § 7, eff. Oct. 1, 1979.

§58-393. Payment or delivery of property to successor by affidavit.

A. At any time ten (10) or more days after the date of death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, chose in action, or stock brand belonging to the decedent shall make payment of the indebtedness or shall deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, chose in action, or stock brand to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating that:

1. The fair market value of property located in this state owned by the decedent and subject to disposition by will or intestate succession at the time of the decedent's death, less liens and encumbrances, does not exceed Fifty Thousand Dollars ($50,000.00);

2. No application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

3. Each claiming successor is entitled to payment or delivery of the property in the respective proportions set forth in the affidavit; and

4. All taxes and debts of the estate have been paid or otherwise provided for or are barred by limitations.

B. A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection A of this section.

C. The public official having cognizance over the registered title of any personal property of the decedent shall change the registered ownership from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection A of this section.

D. At any time after the date of death of a person who was an owner of a severed mineral interest in real estate, any person who claims an interest, immediately or remotely, through the decedent may file with the county clerk of the county where the mineral interest is located an affidavit of death and heirship in compliance with subsection C of Section 67 of Title 16 of the Oklahoma Statutes. Pursuant to Sections 82 and 83 of Title 16 of the Oklahoma Statutes, there shall be a rebuttable presumption that the facts stated in the recorded affidavit are true as they relate to the severed mineral interest, the death of the decedent, and the relationships, family history and heirship stated therein.

E. Any person who knowingly submits and signs a false affidavit as provided in this section shall be fined not more than Three Thousand Dollars ($3,000.00) or imprisoned for not more than six (6) months, or both. Restitution of the amount fraudulently attained shall be made to the rightful beneficiary by the guilty person. Added by Laws 1998, c. 359, § 5, eff. Nov. 1, 1998. Amended by Laws 2004, c. 417, § 1, eff. Nov. 1, 2004; Laws 2010, c. 223, § 2, emerg. eff. May 10, 2010; Laws 2016, c. 250, § 1, eff. Nov. 1, 2016; Laws 2017, c. 73, § 2, eff. Nov. 1, 2017.

§58-394. Discharge and release upon payment or delivery of property by affidavit.

The person paying, delivering, transferring, or issuing personal property or the evidence thereof to the successor or successors named in the affidavit is discharged and released to the same extent as if the person dealt with a personal representative of the decedent. Such person is not required to inquire into the truth of any statement in the affidavit. If any person to whom an affidavit is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the

persons entitled thereto. Any person to whom payment, delivery, transfer, or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.
Added by Laws 1998, c. 359, § 6, eff. Nov. 1, 1998.

§58-411. Realty may be sold.

When a sale of property of the estate is necessary to pay the allowance of the family, or the debts outstanding against a decedent, or the debts, expenses or charges of administration, or legacies, or is otherwise in the best interests of the estate, the executor or administrator may also sell any real, as well as personal, property of the estate in his hands and chargeable for that purpose, upon the order of the district court, and an application for the sale of real property may also embrace the sale of personal property.
R.L.1910, § 6371. Amended by Laws 1978, c. 38, § 1.

§58-412. Application for sale of realty.

To obtain an order for the sale of real property, the executor or administrator must present a verified application to the court setting forth that the sale of the real property will be in the best interest of the estate and a general description of all the real property except the homestead of which the decedent died seized, or in which he had any interest, or in which the estate has acquired any interest, and the value thereof; the names of the heirs, legatees and devisees of the decedent, if any, so far as known to the petitioner. If any of the matters here enumerated cannot be ascertained, it must be so stated in the application; but a failure to set forth the facts showing the sale to be supported by good cause will not invalidate the subsequent proceedings, if the defect be supplied by the proofs at the hearing, and the general facts showing such good cause be stated in the decree.
R.L.1910, § 6372; Laws 1978, c. 38, § 2; Laws 1979, c. 258, § 8.

§58-413. Order for hearing on the petition.

If it appears to the court or judge, from such petition, that it is necessary to sell the whole or some portion of such real estate for the purposes and reasons mentioned in this title, such petition must be filed and an order thereupon made, directing all persons interested in the estate to appear before the court, at a time and place specified, not less than ten (10) days nor more than four (4) weeks from the time of making such order, to show cause why an order should not be made authorizing the executor or administrator to sell so much of the real estate of the decedent as is necessary.
R.L.1910, § 6373; Laws 1953, p. 238, § 28; Laws 1975, c. 136, § 1, eff. Oct. 1, 1975.

§58-414. Notice of order.

The court shall cause copies of the order to show cause to be published once in a newspaper and the hearing shall be held not less than ten (10) days from the date of publication of the notice. The court clerk, deputy court clerk, or an attorney shall mail a copy of the order to all of the then known heirs, legatees, devisees, or their guardians , whose addresses are known, at least ten (10) days prior to the date set for hearing. The hearing shall not be held less than ten (10) days from the date of mailing of the order. If the executor or administrator files a verified petition for the sale, setting forth therein the name or names of all of the known heirs, legatees, and devisees obtainable by exercise of due diligence, all of whom have joined in the petition or have signified in writing their assent thereto, no notice shall be required and the court shall proceed forthwith to hear the petition.

R.L. 1910, § 6374. Amended by Laws 1953, p. 238, § 29; Laws 1957, p. 462, § 1; Laws 1959, p. 222, § 1; Laws 1963, c. 68, § 1, emerg. eff. May 15, 1963; Laws 1969, c. 302, § 14, eff. Jan. 1, 1970; Laws 1995, c. 286, § 12, eff. July 1, 1995.

§58-415. Hearing of petition.

If all heirs, legatees and devisees in said estate do not file in court their written consent to such sale, the district court, at the time and place appointed in such order or at any other time to which the hearing may be postponed, upon satisfactory proof of service, mailing or publication of a copy of the order to show cause, and of posting the same, as provided in this chapter, by affidavit or otherwise, must proceed to hear the petition, and hear and examine the allegations and proofs of the petitioners and all heirs, legatees and devisees of said decedent who may oppose the application.

R.L.1910, § 6375; Laws 1953, p. 238, § 30.

§58-416. Witnesses.

The executor, administrator and witnesses may be examined on oath by either party, and process to compel them to attend and testify may be issued by the judge of the district court in the same manner and with like effect as in other cases.

R.L.1910, § 6376.

§58-417. Sale of all rather than part of realty.

If it appear necessary to sell a part of the real estate, and that by a sale thereof the residue of the estate, real or personal, or some specific part thereof, would be greatly injured or diminished in value, or subjected to expense or rendered unprofitable, or that after such sale the residue would be so small in quantity or value, or would be of such a character with reference to its future disposition among the heirs or devisees, as clearly to render it for

the best interests of all concerned that the same should be sold, the court may authorize the sale of the whole estate, or of any part thereof necessary and for the best interest of all concerned.
R.L.1910, § 6377.

§58-418. Order of sale.

If the court be satisfied, after a full hearing upon the petition and examination of the proofs and allegations of the petitioner and the heirs, legatees and devisees who may oppose the application, that a sale of the whole or some portion of the real estate is necessary, for any of the causes mentioned in this chapter, or if such sale be assented to by all the heirs, legatees and devisees, an order must be made to sell the whole, or so much and such parts of the real estate described in the petition as the court shall judge necessary or beneficial.
R.L.1910, § 6378; Laws 1953, p. 239, § 31.

§58-419. Order, terms and method of the sale.

The order of sale must describe the lands to be sold and the terms of sale, which may be for cash or may be for one-fourth (1/4) cash and the balance on a credit not exceeding two (2) years, payable in gross or installments within that time, with interest, as the court may direct. The land may be sold in one parcel or in subdivisions, as the executor or administrator shall judge most beneficial to the estate, unless the court otherwise specially directs. If it appears that any part of such real estate has been devised and not charged in such devise with the payment of debts or legacies, the court must order the remainder to be sold before that so devised. Every such sale must be ordered to be made at a public auction, unless, in the opinion of the court, it would benefit the estate to sell the whole or some part of such real estate at private sale; the court may, if the same is asked for in the petition, order or direct such real estate, or any part thereof, to be sold either at public or private sale, as the executor or administrator shall judge to be most beneficial to the estate. If the executor or administrator neglects or refuses to make a sale under the order as directed therein, he may be compelled to sell, by order of the court, made on motion, after due notice, by any party interested.
R.L.1910, § 6379; Laws 1970, c. 120, § 1, eff. July 1, 1970.

§58-420. Petition for sale by third person.

If the executor or administrator neglects to apply for any order of sale when it is necessary, any person may make application therefor in the same manner as the executor or administrator, and notice thereof must be given to the executor or administrator before the hearing. The petition of such applicant must contain as many of the matters required for the petition of the executor or

administrator as he can ascertain, and the decree of sale must fix the period of time within which the executor or administrator must make the sale.
R.L.1910, § 6380.

§58-421. Notice of sale at public auction.

When a sale is ordered to be made at public auction, notice of the time and place of sale must be published once each week for two (2) consecutive weeks in a newspaper in each county in which any part of the real property to be sold is situated, and in the county where the order is made and by mailing a copy of said notice to all heirs, legatees and devisees of the decedent whose addresses are known. The real property to be sold must be described with common certainty in the notice. The day of sale must not be earlier than ten (10) days from the date of the first publication of the notice.
R.L.1910, § 6381; Laws 1953, p. 239, § 32; Laws 1955, p. 300, § 3; Laws 1969, c. 302, § 15, eff. Jan. 1, 1970; Laws 1979, c. 258, § 9, eff. Oct. 1, 1979.

§58-422. Place and time of sale.

Sales at public auction must be made in the county where the land is situated; but when the land is situated in two or more counties, it may be sold in either. The sale must be made between the hours of nine o'clock in the morning and the setting of the sun on the same day, and must be made on the day named in the notice of sale, unless the same is postponed.
R.L.1910, § 6382.

§58-423. Private sale - Notice of - Bids.

When a sale of real property is ordered to be made at private sale, notice of such sale must be published once each week for two (2) consecutive weeks in a newspaper in each county in which any part of the land to be sold is situated, and in the county where the order is made and by mailing a copy of the notice to all heirs, legatees and devises of the decedent whose addresses are known. The notice of sale shall describe the real property to be sold with common certainty, and must set a day on or after which the sale will be made, and the place where offers or bids will be received. The date last referred to must be at least ten (10) days from the first publication of notice, and the sale must not be made before that day, but must be made within one (1) year thereafter. The bids or offers must be in writing, and may be left at the place designated in the notice or delivered to the executor or administrator personally at any time after the first publication of notice, and before the making of the sale.
R.L. 1910, § 6383; Laws 1953, p. 239, § 33; Laws 1955, p. 300, § 4; Laws 1963, c. 282, § 1, emerg. eff. June 18, 1963; Laws 1969, c. 302,

§ 16, eff. Jan. 1, 1970; Laws 1979, c. 258, § 10, eff. Oct. 1, 1979; Laws 1988, c. 329, § 130, eff. Nov. 1, 1988; Laws 1992, c. 395, § 9, eff. Sept. 1, 1992.

§58-424. Relationship of sale price to appraisement - Exception of sale under authority of will.

No sale of real estate at private sale shall be confirmed by the court unless the sum offered is at least ninety percent (90%) of the appraised value thereof, nor unless such real estate has been appraised within one (1) year of the time of such sale. If it has not been so appraised, or if the court is satisfied that the appraisement is too high or too low, appraisers must be appointed, and they must make an appraisement thereof in the same manner as in case of an original appraisement of an estate. This may be done at any time before the sale or the confirmation thereof. Provided, that this section shall not apply to property sold under authority or direction of a will.
R.L.1910, § 6384; Laws 1967, c. 234, § 1, emerg. eff. May 4, 1967.

§58-425. Security when sale is made on credit.

The executor or administrator must, when the sale is made upon a credit, take the notes of the purchaser for the purchase money with a mortgage on the property to secure their payment.
R.L.1910, § 6385.

§58-426. Return of sale - Hearing.

Except when a sale is made pursuant to Section 239 of this title, the executor or administrator, after making any sale of real property, must file a sworn return of his proceedings in the court. The court must fix the day for the hearing of such return, and give at least ten (10) days' notice thereof by one publication in a

newspaper in each county in which any part of the real property sold is situated and in the county where the order was made, and by mailing a copy of said notice to all heirs, legatees and devisees of the decedent whose addresses are known, which notice must briefly describe the real property sold, the sum for which it was sold and the name of the purchaser, and must refer to the return for further particulars. Upon the hearing, the court must examine the return and witnesses in relation to the same, and if the proceedings were unfair, or the sum bid disproportionate to the value, and if it appears that a sum exceeding such bid at least ten percent (10%), exclusive of the expenses of a new sale, may be obtained, the court may vacate the sale and direct another to be had, of which notice must be given, and the sale in all respects conducted as if no previous sale had taken place; if an offer of ten percent (10%) more in amount than that named in the return be made to the court in writing, by a responsible person, it is in the discretion of the

court to accept such offer and confirm the sale to such person or to order a new sale.
R.L.1910, § 6386; Laws 1955, p. 300, § 5; Laws 1969, c. 302, § 17; Laws 1970, c. 182, § 1, emerg. eff. April 13, 1970; Laws 1973, c. 89, § 1, eff. Oct. 1, 1973; Laws 1979, c. 258, § 11.

§58-427. Objections to confirmation of return.

When return of the sale is made and filed, any person interested in the estate may file written objections to the confirmation thereof, and may be heard thereon when the return is heard by the court or judge, and may produce witnesses in support of his objections.
R.L.1910, § 6387.

§58-428. Confirmation of sale - Resale, when.

If it appear to the court that the sale was legally made and fairly conducted, and that the sum bid was not disproportionate to the value of the property sold, and that a greater sum, as above specified, cannot be obtained, or if the increased bid mentioned in the second preceding section be made and accepted by the court, the court must make an order confirming the sale, and directing conveyances to be executed. The sale from that time is confirmed and valid, and a certified copy of the order confirming it and directing conveyances to be executed must be recorded in the office of the register of deeds of the county within which the land sold is situated. If after the confirmation the purchaser neglects or refuses to comply with the terms of sale the court may, on motion of the executor or administrator, and after notice to the purchaser, order a resale to be made of the property. If the amount realized on such resale does not cover the bid and the expenses of the previous sale, such purchaser is liable for the deficiency to the estate.
R.L.1910, § 6388.

§58-429. Conveyance and record - Effect of.

Conveyances must thereupon be executed to the purchaser by the executor or administrator and they must refer to the order of the district court confirming the sale of the property of the estate, and directing the conveyances thereof to be executed, unless the sale is made pursuant to Section 239 of this title, in which case no confirmation of the sale is necessary. Conveyances so made convey all the right, title, interest and estate of the decedent, in the premises, at the time of his death, if, prior to the sale, by operation of law or otherwise, the estate has acquired any right, title or interest in the premises, other than, or in addition to, that of the decedent at the time of his death, such right, title or interest also passes by such conveyance.
R.L.1910, § 6389; Laws 1951, p. 162, § 1.

§58-430. Proof of notice before order.

Before any order is entered confirming the sale, it must be proved to the satisfaction of the court that notice was given of the sale as prescribed, and the order of confirmation must show that such proof was made.
R.L.1910, § 6390.

§58-431. Postponement of sale.

If, at the time appointed for the sale, the executor or administrator deems it for the interest of the persons concerned therein that the same be postponed, he may postpone it from time to time, not exceeding in all three (3) months.
R.L.1910, § 6391.

§58-432. Notice of postponement.

In case of a postponement, notice thereof must be given, by public announcement and posting of notice at the time and place first appointed for the sale. If the postponement be for more than ten (10) days, notice must also be given by one publication in a newspaper in the county where the land is situated. An affidavit of such postponement and posting shall be given by the administrator.
R.L.1910, § 6392; Laws 1969, c. 302, § 18, eff. Jan. 1, 1970.

§58-461. Provisions of the will must be followed.

If the testator makes provisions by his will or designates the estate to be appropriated for the payment of his debts, the expenses of administration, or family expenses, they must be paid according to such provisions or designation, out of the estate thus appropriated, so far as the same is sufficient.
R.L.1910, § 6393.

§58-462. Sale of property under the will - Confirmation.

When property is directed or authorized by the will to be sold or dealt with in any other manner by the executor, the executor may sell or otherwise deal with any property of the estate without the order of the court on such basis and on such terms as the executor may determine; but the executor must make return of such sales as in other cases, unless the sale is made pursuant to Section 239 of this title. If directions are given in the will as to mode of selling, or the particular property to be sold, such directions must be observed. No title passes unless the sale is confirmed by the court, except if the sale was made pursuant to Section 239 of this title, then no confirmation of the sale by the court is necessary.
R.L.1910, § 6394; Laws 1969, c. 302, § 19, eff. Jan. 1, 1970.

§58-462.1. Partition of property under the will - Sale

When the will of a testator authorizes the executor or personal representative of an estate being probated to institute partition of real property in which the testator at his death held an undivided interest, an order by the probate court authorizing the institution of such action, or the joinder of such action with a quiet title suit, shall be unnecessary. Further, in the event a sale is confirmed in the partition action, no confirmation of sale in the probate case shall be required.
Laws 1976, c. 77, § 1, emerg. eff. April 29, 1976.

§58-463. When provisions of will are insufficient.
If the provision made by the will, or the estate appropriated therefor, is insufficient to pay the debts, expenses of administration, and family expenses, that portion of the estate not devised or disposed of by will, if any, must be appropriated and disposed of for that purpose according to the provisions of this chapter.
R.L.1910, § 6395; Laws 1953, p. 239, § 34.

§58-471. Estate liable for debts.
The estate, real and personal, given by will to legatees or devisees, is liable for the debts, expenses of administration, and family expenses, in proportion to the value or amount of the several devises, or legacies, but specific devises or legacies are exempt from such liability if it appears to the court necessary to carry into effect the intention of the testator, and there is other sufficient estate.
R.L.1910, § 6396.

§58-471.1. Liability as dependent on time of granting letters.
No real property of a deceased person shall be liable for debts of such person unless letters testamentary or of administration be granted within three (3) years from the date of the death of such decedent; provided, however, that this section shall not affect the lien of any mortgage, upon specific real property, existing and recorded as provided by law at the date of the death of such decedent.
Laws 1945, p. 188, § 1.

§58-472. Contribution from devisees and legatees.
When an estate given by will has been sold for the payment of debts or expenses, all the devisees and legatees must contribute according to their respective interests to the devisee or legatee whose devise or legacy has been taken therefor, and the district court, when distribution is made, must, by decree for that purpose, settle the amount of the several liabilities, and decree the amount each person shall contribute, and reserve the same from their

distributive shares respectively, for the purpose of paying such contribution.
R.L.1910, § 6397.

§58-481. Contract for the purchase of lands may be sold.

If a decedent, at the time of his death, was possessed of a contract for the purchase of land, his interests in such land and under such contracts may be sold on the application of his executor or administrator, in the same manner as if he had died seized of such land, and the same proceedings may be had for that purpose as are prescribed in this article for the sale of lands of which he died seized, except as hereinafter provided.
R.L.1910, § 6398.

§58-482. Terms of the sale of land contract.

The sale must be made subject to all payments that may hereafter become due on such contracts, and if there are any such the sale must not be confirmed by the district court until the purchasers execute a bond to the executor or administrator, for the benefit and indemnity of himself and of the person entitled to the interest of the decedent in the lands so contracted for, in double the whole amount of payments thereafter to become due on such contract, with such sureties as the judge of the district court shall approve.
R.L.1910, § 6399.

§58-483. What bond must specify.

The bond must be conditioned that the purchaser will make all payments for such land that become due after the date of the sale, and will fully indemnify the executor or administrator and the persons so entitled against all demands, costs, charges and expenses by reason of any covenant or agreement contained in such contract.
R.L.1910, § 6400.

§58-484. Assignment of contract.

Upon the confirmation of the sale, the executor or administrator must execute to the purchaser an assignment of the contract, which vests in the purchaser, his heirs and assigns, all the right, title and interest of the estate, or of the persons entitled to the interest of the decedent in the lands sold at the time of the sale and the purchaser has the same rights and remedies against the vendor of such land as the decedent would have had if he were living.
R.L.1910, § 6401.

§58-485. Sale of land subject to mortgage.

When any sale is made by an executor or administrator, pursuant to the provisions of this chapter, of lands subject to any mortgage or other lien, which is a valid claim against the estate of the

decedent and has been presented and allowed, the purchase money must be applied, after paying the necessary expenses of the sale, first to the payment and satisfaction of the mortgage or lien, and the residue, if any, in due course of administration. The application of the purchase money to the satisfaction of the mortgage or lien must be made without delay; and the land is subject to such mortgage or lien until the purchase money has been actually so applied. No claim against any estate which has been presented and allowed is affected by the statute of limitations, pending the proceedings for the settlement of the estate. The purchase money, or so much thereof as may be sufficient to pay such mortgage or lien, with interest, and any lawful costs and charges thereon, may be paid into the district court, to be received by the judge thereof, whereupon the mortgage or lien upon the land must cease, and the purchase money must be paid over by the judge without delay, in payment of the expenses of the sale and in satisfaction of the debt, to secure which the mortgage or other lien was taken, and the surplus, if any, at once returned to the executor or administrator, unless, for good cause shown, after notice to the executor or administrator, the judge otherwise directs.
R.L.1910, § 6402; Laws 1953, p. 240, § 35.

§58-486. Holder of mortgage may purchase land.

At any sale under order of the district court, of lands upon which there is a mortgage or lien, the holder thereof may become the purchaser, and his receipt for the amount due him from the proceeds of the sale is a payment pro tanto. If the amount for which he purchased the property is insufficient to defray the expenses and discharge his mortgage or lien, he must pay to the judge an amount sufficient to pay such expenses.
R.L.1910, § 6403.

§58-491. Misconduct in sale.

If there is any neglect or misconduct in the proceedings of the executor or administrator in relation to any sale, by which any person interested in the estate suffers damage, the party aggrieved may recover the same in an action upon the bond of the executor or administrator or otherwise.
R.L.1910, § 6404.

§58-492. Fraudulent sale - Damages.

Any executor or administrator who fraudulently sells any real estate of a decedent, contrary to or otherwise than under the provisions of this chapter, is liable in double the value of the land sold, as liquidated damages, to be recovered in action by the person having an estate of inheritance therein.
R.L.1910, § 6405; Laws 1953, p. 240, § 36.

§58-493. Limitation of action to recover.

No action for the recovery of any estate sold by an executor or administrator, under the provisions of this chapter, can be maintained by any heirs, or other persons claiming under the decedent, unless it be commenced within two (2) years next after the sale. An action to set aside the sale on the ground of fraud may be instituted and maintained at any time within two (2) years from the discovery of the fraud.

R.L.1910, § 6406; Laws 1953, p. 240, § 37.

§58-494. Persons under disabilities excepted.

The preceding section shall not apply to minors, or others under any legal disability to sue at the time when the right of action first accrues; but all such persons may commence an action at any time within two (2) years after the removal of the disability.

R.L.1910, § 6407; Laws 1953, p. 240, § 38.

§58-495. Account of sale.

When a sale has been made by an executor or administrator, of any property of the estate, real or personal, he must return to the district court, within thirty (30) days, an account of sales, verified by his affidavit. If he neglect to make such return, he may be punished by attachment, or his letters may be revoked, one (1) day's notice having been first given him to appear and show cause why such attachment should not issue or such revocation should not be made.

R.L.1910, § 6408; Laws 1953, p. 240, § 39.

§58-496. Representative cannot be a purchaser.

No executor or administrator must directly or indirectly, purchase any property of the estate he represents, nor must he be interested in any sale.

R.L.1910, § 6409.

§58-497. Contract with agent to procure purchaser.

The district court may authorize the executor or administrator of any estate to enter into a written contract with any bona fide agent to secure a purchaser for any real or personal property of the estate, which contract shall provide for the payment to such agent, out of the proceeds of a sale to any purchaser secured by him, of a commission, the amount of which must be fixed and allowed by the court upon confirmation of the sale; and when said sale is confirmed to such purchaser, such contract shall be binding and valid as against the estate for the amount so allowed by the court. By the execution of any such contract no personal liability shall attach to the executor or administrator, and no liability of any kind shall be

incurred by the estate unless an actual sale is made and confirmed by the court.
Laws 1953, p. 252, § 1.

§58-498. Sale on increased bid to purchaser not procured by agent holding contract.

In case of sale on an increased bid made at the time of confirmation to a purchaser not procured by the agent holding the contract, the court shall allow a commission on the full amount for which the sale is confirmed, one-half (1/2) of said commission on the original bid to be paid to the agent whose bid was returned to the court for confirmation and the balance of the commission on the purchase price to the agent, if any, who procured the purchaser to whom the sale was confirmed.
Laws 1953, p. 252, § 2.

§58-499. Sale on increased bid procured by agent.

Where an original bid is made by a purchaser direct to the estate and, thereafter, at the time of hearing the return of sale containing the original bid, an increased bid is made by a bona fide agent which results in the confirmation and sale of the property at such increased bid, the court shall allow a commission to the agent who procured the increased bid, which commission shall be fixed by the court at such amount as the court, in its discretion, finds will be a reasonable compensation for the services of the agent to the estate.
Laws 1953, p. 253, § 3.

§58-501. Representative to make deed under decedent's contract.

When a person who is bound by contract in writing to convey any real estate, dies before making the conveyance, and such decedent, if living, might be compelled to make such conveyance, the district court may enter a decree authorizing and directing his executor or administrator to convey such real estate to the person entitled thereto.
R.L.1910, § 6410; Laws 1975, c. 13, § 1, eff. Oct. 1, 1975.

§58-502. Application and hearing.

On the filing of a verified application by either the executor or the administrator, or by any person claiming to be entitled to such conveyance from an executor or administrator, setting forth the facts upon which the claim is predicated, the court shall appoint a time for hearing the application, shall issue notice thereof, shall cause copies of such notice to be mailed to each of the heirs at law, devisees and legatees of the decedent, whose addresses are known, at least ten (10) days prior to the date of hearing, and shall cause notice thereof to be published one time, at least ten (10) days

before the date of hearing, in a newspaper of general circulation published in the county where the property is located.
R.L.1910, § 6411; Laws 1967, c. 126, § 1; Laws 1969, c. 302, § 20, eff. Jan. 1, 1970; Laws 1975, c. 13, § 2, eff. Oct. 1, 1975.

§58-503. Hearing.

At the time and place appointed for the hearing, or at such other time to which the same may be postponed, upon satisfactory proof, by affidavit or otherwise, of proper mailing and publication of notice, as required by the preceding sections, the court shall conduct said hearing, and the heirs at law, devisees and legatees of the decedent and all persons interested in the estate, may appear and contest such application, and the court may examine, under oath, the applicant and all other persons who come before the court for that purpose.
R.L.1910, § 6412; Laws 1975, c. 13, § 3, eff. Oct. 1, 1975.

§58-504. Decree.

If, after a full hearing upon the application and objections, and examination of the facts and circumstances of the claim, the court is satisfied that the person claiming to be entitled to such conveyance is entitled thereto, a decree authorizing and directing the executor or administrator to execute a conveyance of the real estate described in the application to such person shall be made, entered on the minutes of the court, and recorded.
R.L.1910, § 6413; Laws 1975, c. 13, § 4, eff. Oct. 1, 1975.

§58-505. Deed and record.

The executor or administrator must execute the conveyance according to the directions of the decree, a certified copy of which shall be recorded with the deed in the office of the county clerk of the county where the real estate is situated, and shall be prima facie evidence of the correctness of the proceedings and of the authority of the executor or administrator to make the conveyance.
R.L.1910, § 6414; Laws 1975, c. 13, § 5, eff. Oct. 1, 1975.

§58-507. Effect of conveyance.

Every conveyance made pursuant to a decree of the district court, as provided in this chapter, shall pass the title to the estate contracted for as fully as if the contracting party himself was still living and executed the conveyance.
R.L.1910, § 6416; Laws 1953, p. 241, § 41; Laws 1975, c. 13, § 6, eff. Oct. 1, 1975.

§58-509. Enforcement of decree.

The recording of any decree, as provided in the preceding section, shall not prevent the court which entered the decree from enforcing the same by other process.

R.L.1910, § 6418; Laws 1975, c. 13, § 7, eff. Oct. 1, 1975.

§58-510. Death of claimant.

If the person entitled to the conveyance dies before an application is filed, as provided in this chapter, or before the completion of the conveyance, any person entitled to succeed to his rights in the contract, or the executor or administrator of such decedent, may, for the benefit of the person or persons so entitled, commence such proceedings,or pursue any proceedings already commenced, and the conveyance shall be so made as to vest title in the person or persons entitled thereto, or in the executor or administrator, for their benefit.

R.L.1910, § 6419; Laws 1953, p. 241, § 42; Laws 1975, c. 13, § 8, eff. Oct. 1, 1975.

§58-511. Decree may order possession.

The decree provided for in this chapter may direct the possession of the real estate therein described to be surrendered to the person or persons entitled thereto, at the time when, by the terms of the contract, possession is to be surrendered.

R.L.1910, § 6420; Laws 1953, p. 241, § 43; Laws 1975, c. 13, § 9, eff. Oct. 1, 1975.

§58-512. Transfer of property to governmental entities - Approval by district court.

In any proceedings involving any estate which is being probated, or when a minor or incompetent person has a legal guardian, the administrator or executor of such estate, or the guardian of such minor or incompetent person, shall have authority to execute all instruments of conveyance of any degree of title to the State of Oklahoma or any agency or political subdivision thereof, or the United States Government or any agency thereof, on behalf of said estate, minor or incompetent person without other proceedings than approval by the judge of the district court endorsed on said instruments of conveyance and the amount of consideration shown thereon.

Laws 1967, c. 370, § 1, emerg. eff. May 22, 1967; Laws 1975, c. 13, § 10, eff. Oct. 1, 1975.

§58-521. Promise to pay debts of decedent.

No executor or administrator is chargeable upon any special promise to answer damages or to pay the debts of the testator or intestate out of his own estate, unless the agreement for that purpose, or some memorandum or note thereof, is in writing and signed by such executor or administrator, or by some other person by him thereunto specially authorized.

R.L.1910, § 6421.

§58-522. Representative chargeable with whole estate.

Every executor or administrator is chargeable in his account with the whole of the estate of the decedent which may come into his possession, at the value of the appraisement contained in the inventory, except as provided in the following sections, and with all the interest, profit and income of such estate.
R.L.1910, § 6422.

§58-523. Representative shall not profit or lose.

He shall not make profit by the increase, nor suffer loss by the decrease or destruction, without his fault, of any part of the estate. He must account for the excess when he sells any part of the estate for more than the appraisement, and if any part he sold for less than the appraisement, he is not responsible for the loss, if the sale has been justly made.
R.L.1910, § 6423.

§58-524. Representative not chargeable with uncollected debts.

No executor or administrator is accountable for any debts due to the decedent, if it appears that they remain uncollected without his fault.
R.L.1910, § 6424.

§58-525. Expenses and compensation.

He shall be allowed all necessary expenses in the care, management and settlement of the estate, and for his services such fees as are provided in this chapter, but when the decedent, by his will, makes some other provision for the compensation of his executor, that shall be a full compensation for his services, unless by a written instrument, filed in the district court, he renounces all claim for compensation provided by the will.
R.L.1910, § 6425. Amended by Laws 1953, p. 241, § 44.

§58-526. Cannot purchase claims.

No administrator or executor shall purchase any claim against the estate he represents; and if he pays any claim for less than its nominal value, he is only entitled to charge in his account the amount he actually paid.
R.L.1910, § 6426.

§58-527. Fees and commissions.

A. When no compensation is provided by the will, or the executor renounces all claim thereto, he must be allowed commissions upon the amount of the whole estate accounted for by him, excluding all property not ranked as assets, as follows:

1. For the first thousand dollars, at the rate of five percent (5%);

2. For the next Five Thousand Dollars ($5,000.00), at the rate of four percent (4%); and

3. For all amounts above Six Thousand Dollars ($6,000.00), at the rate of two and one-half percent (2 1/2%); and the same commission must be allowed administrators.

In all cases such further allowance may be made, as the judge of the district court may deem just and reasonable, for any extraordinary service. The total amount of such allowance must not exceed the amount of commissions allowed by this section.

B. Co-executors and co-administrators shall be entitled, as a unit, to the same fee allowable to a single executor or administrator, which shall be divided among them as the court may determine, unless they agree to a different division and the division is approved by the court.

C. An executor or administrator who does not serve during the entire administration of an estate shall be entitled to only a portion of the fee provided in subsection A of this section, and such portion shall be determined by the court in its discretion.
R.L. 1910, § 6427; Laws 1992, c. 395, § 10, eff. Sept. 1, 1992.

§58-541. Accounting - Waiver - Sufficiency.

At the final accounting for settlement of the estate or at any other time required by the court, either upon its own motion or upon the application of any person interested in the estate, the executor or administrator must render, for the information of the court, an exhibit under oath, showing the amount of money received and expended by him, the amount of all claims presented against the estate and the names of the claimants, and all other matters necessary to show the condition of its affairs; provided, however, that if waived in writing by all persons entitled to distribution or if the personal representative is the sole recipient, no itemized accounting of income and expenses shall be required in the final accounting. It shall be sufficient for the personal representative to state under oath that:

1. All income has been properly received and expenses lawfully made;

2. All allowed and approved claims have been paid;

3. All funeral expenses, taxes and costs of the administrator have been paid; and

4. The estate is ready for closing.
R.L. 1910, § 6428. Amended by Laws 1994, c. 234, § 1, eff. Sept. 1, 1994.

§58-542. Citation upon failure.

If the executor or administrator fail to render an exhibit when required to do so, the judge of the district court must issue a citation requiring him to appear and render it.
R.L.1910, § 6429; Laws 1953, p. 241, § 45.

§58-543. Petition by third person for accounting.
Any person interested in the estate may, at any time before the final settlement of accounts, present his petition to the judge of the district court, praying that the executor or administrator be required to appear and render such exhibit, setting forth the facts showing that it is necessary and proper that such an exhibit should be made.
R.L.1910, § 6430.

§58-544. Action upon petition.
If the judge be satisfied, either from the oath of the applicant or from any other testimony offered, that the facts alleged are true, and considers the showing of the applicant sufficient, he must issue a citation to the executor or administrator, requiring him to appear at some day named in the citation, and render an exhibit as prayed for.
R.L.1910, § 6431; Laws 1953, p. 241, § 46.

§58-545. Contest of the exhibit - Examination.
When an exhibit is rendered by an executor or administrator, any person interested may appear, and by objections in writing, contest any account or statement therein contained. The court may examine the executor or administrator, and if he has been guilty of neglect, or has wasted, embezzled, or mismanaged the estate, his letters must be revoked.
R.L.1910, § 6432.

§58-546. Penalty for refusal to account after citation. If any executor or administrator neglects or refuses to appear and render an exhibit, after having been duly cited, an attachment may be issued against him and such exhibit enforced, or his letters may be revoked, in the discretion of the court.
R.L.1910, § 6433.

§58-547. Repealed by Laws 1994, c. 234, § 8, eff. Sept. 1, 1994.

§58-548. Representative or guardian may be cited by successor - Accounting by personal representative of deceased executor, administrator or guardian.
When the authority of an executor or administrator or of the guardian of any incompetent or insane or minor person ceases or is revoked for any reason he may be cited to account before the district

court at the instance of the person succeeding to the administration or the guardianship of the same estate, in like manner as he might have been cited by any person interested in the estate during the time he was such executor or administrator or guardian.

If the executor or administrator, or if the guardian of any incompetent or insane or minor person dies, his accounts may be presented by his personal representative to, and settled by, the court in which the estate of which he was executor or administrator or guardian, is being administered, or is pending, and, upon petition of the successor of such deceased executor or administrator, or guardian, such court shall compel the personal representative of the deceased executor or administrator or guardian to render an account of the administration or guardianship of his testator or intestate, or ward as the case may be, and must settle such account as in other cases.

R.L.1910, § 6435; Laws 1941, p. 232, § 1; Laws 1949, p. 386, § 1.

§58-549. Letters revoked for continued failure.

If the executor or administrator resides out of the county, or absconds, or conceals himself so that the citation cannot be personally served and neglects to render an account within thirty (30) days after the time prescribed in this chapter, or if he neglects to render an account within thirty (30) days after being committed where the attachment has been executed, his letters must be revoked.

R.L.1910, § 6436; Laws 1953, p. 241, § 47.

§58-550. Vouchers or other proof of payment to accompany account.

In rendering his account, the executor or administrator must, upon request of the court or an interested party, file vouchers or other proof of payment for all charges, debts, claims, and expenses which he has paid, which must remain in the court; and he may be examined on oath touching such payments, and also touching any property and effects of the decedent, and the disposition thereof. When any voucher or other proof of payment is required for other purposes, it may be withdrawn on leaving a certified copy on file; if a voucher or other proof of payment is lost, or for other good reason cannot be produced on the settlement, the payment may be proved by the oath of any competent witness.

R.L. 1910, § 6437. Amended by Laws 1994, c. 234, § 2, eff. Sept. 1, 1994.

§58-551. Repealed by Laws 1994, c. 234, § 8, eff. Sept. 1, 1994.

§58-552. Notice of settlement of account.

When any account other than a final account is rendered for settlement the court must appoint a day for the settlement thereof.

The court shall require such notice as it deems proper or may waive notice.
R.L.1910, § 6439; Laws 1969, c. 302, § 21, eff. Jan. 1, 1970.

§58-553. Date of hearing - Notice of final settlement.

Every account for the final settlement and petition for distribution of an estate shall stand for hearing at a date to be fixed by the court, not less than twenty (20) days after the filing thereof; and notice of such hearing shall be given by mailing written or printed copies of the notice of such hearing to the heirs, legatees and devisees whose addresses are known, and deposited in the post office with the postage thereon prepaid, at least ten (10) days before the hearing, and said notice of such hearing shall also be given by publication once each week for two (2) consecutive weeks in a newspaper published in the county, showing the name of the decedent and of the executor or administrator, the date of the hearing, and that such account is for final settlement and distribution: Provided, any number of accounts may be included in one notice and the cost of publication thereof divided among the estates whose settlements are advertised therein.
R.L.1910, § 6440; Laws 1953, p. 241, § 48; Laws 1969, c. 302, § 22, eff. Jan. 1, 1970.

§58-554. Exceptions to the account.

On the day appointed, or any subsequent day to which the hearing may be postponed by the court, any person interested in the estate may appear and file his exceptions in writing to the account, and contest the same.
R.L.1910, § 6441.

§58-555. Contest by heirs.

All matters, including allowed claims not passed upon on the settlement of any former account, or on rendering an exhibit, or on making a decree of sale, may be contested by the heirs for cause shown. The hearing and allegations of the respective parties may be postponed from time to time, when necessary, and the court may appoint one or more referees to examine the account and make report thereon, subject to confirmation; and may allow a reasonable compensation to the referees, to be paid out of the estate of the decedent.
R.L.1910, § 6442.

§58-556. Settlement conclusive - Exception.

The settlement of the account and the allowance thereof by the court, or upon appeal, is conclusive against all persons in any way interested in the estate, saving, however, to all persons laboring under any legal disability, their right to move for cause to reopen

and examine the account, or to proceed by action against the executor or administrator, either individually or upon his bond, at any time before final distribution; and in any action brought by any such person, the allowance and settlement of such account is prima facie evidence of its correctness.
R.L.1910, § 6443.

§58-557. Proof of notice.
The account must not be allowed by the court until it is first proved that notice has been given as required by this article, and the decree must show that such proof was made to the satisfaction of the court, and is conclusive evidence of the fact.
R.L.1910, § 6444.

§58-581. Investment of funds.
A. Pending the settlement of any estate on the petition of the personal representative or any heir, legatee or devisee of the decedent, the court may order any money in the hands of the personal representative to be invested for the benefit of the estate, in United States Government obligations, in the form of securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940; provided, that the portfolio of such investment company or investment trust is limited to United States Government obligations and to repurchase agreements fully collateralized by such United States Government obligations, and provided further, that any such investment company or investment trust shall take delivery of such collateral, either directly or through an authorized custodian. Such order can only be made after such notice of the petition to the heirs, legatees, devisees, or personal representative as the court may direct.
B. Pending the settlement of any estate, the personal representative, unless expressly provided to the contrary in the will of the decedent, may invest estate funds in United States government obligations directly and in accounts fully insured by the United States government, without any order of the court.
Amended by Laws 1986, c. 106, § 1, emerg. eff. April 5, 1986; Laws 1991, c. 148, § 3, eff. Sept. 1, 1991.

§58-591. Order of payment of debts.
The debts of the estate must be paid in the following order:
1. Funeral expenses.
2. The expenses of the last sickness.
3. Funds necessary for the support of the family and allowed by the court pursuant to the provisions of this chapter.
4. Taxes to the United States or the state, county, or city.

5. Debts having preference under the laws of the United States and of this state.

6. Judgments rendered against the decedent in his lifetime, which are liens upon his property and mortgages in the order of their date.

7. Demands or claims which are presented to the executor or administrator for an allowance or proved within two (2) months after the first publication of notice to creditors.

8. All other demands against the estate except those set forth in paragraph 9 of this section.

9. Interest resulting from the extension of time for payment of federal estate or transfer taxes. Such interest shall be a cost of administration but shall not be deductible in arriving at the Oklahoma net taxable estate under Section 808 (g) of Title 68.

R.L.1910, § 6447; Laws 1953, p. 242, § 50; Laws 1967, c. 136, § 1, emerg. eff. April 27, 1967; Laws 1980, c. 249, § 1, eff. Oct. 1, 1980.

§58-592. Limit as to mortgage.

The preference given in the preceding section to a mortgage only extends to the proceeds of the property mortgaged. If the proceeds of such property be insufficient to pay the mortgage, the part remaining unsatisfied must be classed with other demands against the estate.

R.L.1910, § 6448.

§58-593. Method of payment.

If the estate be insufficient to pay all the debts of any one class, each creditor must be paid a dividend in proportion to his claim; and no creditor of any class shall receive any payment until all those of the preceding class are fully paid.

R.L.1910, § 6449.

§58-594. When certain expenses paid.

The executor or administrator, as soon as he has sufficient funds in his hands, must pay the funeral expenses, and the expenses of the last sickness, and the allowance made to the family of the decedent. He may retain in his hands the necessary expenses of administration, but he is not obliged to pay any other debt or any legacy until, as prescribed in this chapter, the payment has been ordered by the court.

R.L.1910, § 6450; Laws 1953, p. 242, § 51.

§58-595. Order for the payment of debts.

Upon the settlement of the accounts of the personal representative, at the end of the year, as required in this title, the court must make an order for the payment of the debts, as the

circumstances of the estate require. If there be not sufficient funds in the hands of the personal representative to pay in full all the allowed debts, the court must specify in the decree the sum to be paid to each creditor. If the whole assets of the estate be exhausted by such payments, such account must be considered as a final account, and the personal representative is entitled to his discharge on producing and filing the necessary supporting documents and proofs showing that such payments have been made, and that he has fully complied with the decree of the court.
Amended by Laws 1988, c. 228, § 14, emerg. eff. June 22, 1988.

§58-596. Payment of unmatured, contingent, or disputed claims.
Subject to the provisions of Section 5 of Title 46 of the Oklahoma Statutes, if there is any claim not due, or any contingent or disputed claim against the estate, the court may direct that the amount thereof, or such part of the same as the holder would be entitled to if the claim were due, established or absolute, be paid into the court, and there remain, to be paid over to the party when he becomes entitled thereto, or the court may direct that such claim be satisfied in some other manner as determined by the court in its discretion; or, if the party fails to establish his claim, to be paid over or distributed as the circumstances of the estate require. If any creditor whose claim has been allowed, but is not yet due, appears and assents to a deduction therefrom of the legal interest for the time the claim has yet to run, he is entitled to be paid accordingly. The payments provided for in this section are not to be made when the estate is insolvent, unless a pro rata distribution is ordered.
R.L. 1910, § 6452; Laws 1992, c. 395, § 11, eff. Sept. 1, 1992.

§58-597. Liability of representative after order.
When a decree is made by the district court for the payment of a decedent's creditors, the personal representative is personally liable to each creditor for his allowed claim, or the dividend thereon, and execution may be issued on such decrees as upon any civil judgment in the district court, in favor of each creditor, and the same proceeding may be had under such execution as if it had been issued as any civil judgment. The personal representative is liable therefor on his bond to each creditor.
Amended by Laws 1988, c. 228, § 15, emerg. eff. June 22, 1988.

§58-598. Rights of creditors not included in order.
When the accounts of the personal representative have been settled, and an order made for the payment of debts, no creditor whose claim was not included in the order for payment has any right to call upon any creditor who has been paid, or upon the heirs, devisees, or legatees, to contribute to the payment of his claim; but

if the personal representative has failed to give the notice to creditors as required in Section 331 of this title, such creditor may recover on the bond of the personal representative the amount of his claim, or such part thereof as he would have been entitled to had it been allowed. This section shall not apply to any creditor whose claim was not due as of the presentment date specified in the notice to creditors.
Amended by Laws 1988, c. 228, § 16, emerg. eff. June 22, 1988.

§58-611. Payment of legacies and distribution of estate - Extension of time for final settlement.

If the whole of the debts has been paid pursuant to the order for payment of debts as required by Section 595 of this title, the court may, upon compliance with the provisions of this title relating to petitions for distribution or partial distribution, direct the payment of legacies and the distribution of the estate among the heirs, legatees, devisees, or other persons entitled as provided in this title; but if there be any debt remaining unpaid or if, for any other reason, the estate be not in a proper condition to be closed, the court must give such extension of time as may be reasonable for a final settlement of the estate.
Amended by Laws 1988, c. 228, § 17, emerg. eff. June 22, 1988.

§58-612. Final account and settlement.

At the time designated in the last section, or sooner, if within that time all the property of the estate has been sold, or there are sufficient funds in his hand, for the payment of all debts due by the estate, and the estate be in a proper condition to be closed, the executor or administrator must render a final account, and pray a settlement of his administration.
R.L.1910, § 6456.

§58-613. Provisions applying to final settlement.

If he neglect to render his account, the same proceedings may be had as prescribed in this chapter in regard to the first account to be rendered by him; and all the provisions of this chapter relative to the last mentioned account, and the notice and settlement thereof, apply to his account presented for final settlement.
R.L.1910, § 6457; Laws 1953, p. 243, § 54.

§58-621. Petition for legacy or share of estate.

At any time after the lapse of three (3) months from the issuing of letters testamentary or of administration, any heir, devisee or legatee or personal representative of the estate of the decedent on behalf of such heir, devisee or legatee may present his petition to the court for the legacy or shareof the estate to which he is entitled, to be given to him upon his giving bond, with security, for

the payment of his proportion of the debts of the estate unless said bond is not required by the court.
Amended by Laws 1988, c. 329, § 131, eff. Nov. 1, 1988.

§58-622. Notice of application - Waiver.

A. Except when the executor or administrator is the petitioner or one of the petitioners, notice of the application shall be given to the executor or administrator by personal service. Notice of the application shall be given to all heirs, devisees and legatees of the decedent by mail. Notice shall be in the form required by the court and shall be given not less than ten (10) days prior to the date set by the court for the hearing on the application.

B. Notice shall not be required if the application notice is waived in writing by all of the heirs, devisees and legatees of the decedent as determined pursuant to the provisions of Section 240 of this title.
Amended by Laws 1988, c. 329, § 132, eff. Nov. 1, 1988.

§58-623. Who may resist petition.

The executor or administrator, or any person interested in the estate, may appear at the time named and resist the application, or any other heir, devisee or legatee may make a similar application for himself.
R.L.1910, § 6460.

§58-624. Allowance of petition - Order.

If at the hearing it appears that the estate is but little indebted, and that the share of the party applying may be allowed to him without loss to the creditors of the estate, the court must make an order in conformity with the prayer of the applicant, requiring:

1. Each heir, legatee or devisee obtaining such order, before receiving his share of the estate or any portion thereof, to execute and deliver to the executor or administrator a bond, in such sum as shall be designated by the court, with surety or sureties to be approved by the court, payable to the executor or administrator, and conditioned for the payment, whenever required, of his proportion of the debts due from the estate, not exceeding the value or amount of the legacy or portion of the estate to which he is entitled. If the court determines that the circumstances are such that a bond is not necessary, the court may order that no bond shall be required.

2. The executor or administrator to deliver to the heir, legatee or devisee the whole portion of the estate to which he may be entitled, or only a part thereof, designating it.

If, in the execution of the order, a partition is necessary between two or more of the parties interested, it must be made in the manner hereinafter prescribed. The costs of these proceedings shall

be paid by the applicant, or if there be more than one, shall be apportioned equally amongst them.
Amended by Laws 1988, c. 329, § 133, eff. Nov. 1, 1988.

§58-625. Assessment against legatee or devisee.

When any bond has been executed and delivered, under the provisions of the preceding section, and it is necessary for the settlement of the estate to require the payment of any part of the money thereby secured, the executor or administrator must petition the court for an order requiring the payment, and have a citation issued and served on the party bound, requiring him to appear and show cause why the order should not be made. At the hearing, the court, if satisfied of the necessity of such payment, must make an order accordingly, designating the amount and giving a time within which it must be paid. If the money be not paid within the time allowed, an action may be maintained by the executor or administrator on the bond.
R.L.1910, § 6462.

§58-631. Distribution.

Upon the final settlement of the accounts of the executor or administrator, or at any subsequent time, upon the application of the executor or administrator, or of any heir, legatee, or devisee, the court must proceed to distribute the residue of the estate in the hands of the executor or administrator, if any, among the persons who by law are entitled thereto, and if the decedent has left a surviving child, and the issue of other children, and any of them, before the close of administration, have died while under age and not having been married, no administration on such deceased child's estate is necessary, but all the estate which such deceased child was entitled to by inheritance, must, without administration, be distributed in accordance with the laws of descent and distribution of this state. A statement of any receipts and disbursements of the executor or administrator, since the rendition of his final accounts, must be reported and filed at the time of making such distribution, and a settlement thereof, together with an estimate of the expenses of closing the estate, must be made by the court and included in the order or decree, or the court or judge may order notice of the settlement of such supplementary account, and refer the same as in other cases of settlement of accounts.
R.L.1910, § 6463; Laws 1953, p. 243, § 55.

§58-632. Rights fixed by decree.

In the order or decree, the court must name the persons and the proportions or parts to which each shall be entitled, and such persons may demand, sue for and recover their respective shares from the executor or administrator, or any person having the same in

possession. Such order or decree is conclusive as to the rights of heirs, legatees or devisees, subject only to be reversed, set aside, or modified on appeal.
R.L.1910, § 6464.

§58-632.1. Validation of decrees entered prior to January 1, 1941.

In all cases of administration of estates of deceased persons in this state, where the final decrees have been entered prior to January 1, 1941, and which said final decrees are, or may be, defective or invalid by reason of any failure to make, or any defect in, the final account, or in the petition for distribution and determination of heirship, or in the order setting the same hearing, or in the notice of hearing thereon, said final decrees are hereby validated; Provided, however, this act shall not apply to any case wherein action is instituted and maintained to modify or vacate such final decree prior to January 1, 1946, and provided further, that the above shall not apply to insane persons, incompetents, or to any person laboring under legal disability.
Laws 1945, p. 188, § 1.

§58-632.2. Validation of decrees entered prior to January 1, 1951.

In all cases of administration of estates of deceased persons in this state, where the final decrees have been entered prior to January 1, 1951, and which said final decrees are, or may be, defective or invalid by reason of any failure to make, or any defect in, the final account, or in the petition for distribution and determination of heirship, or in the order setting the same for hearing, or in the notice of hearing thereon, said final decrees are hereby validated; provided, however, this act shall not apply to any case wherein action is instituted and maintained to modify or vacate such final decree prior to January 1, 1956, and provided, further, that the above shall not apply to insane persons, incompetents, or to any person laboring under legal disability.
Laws 1955, p. 301, § 1.

§58-632.3. Compliance with notice requirements - Form of final decree - Voidable decree.

1. At the hearing on the final account of any personal representative who has given notice to creditors as provided in this title, the judge shall conduct an inquiry to judicially determine whether the personal representative has complied with the provisions of Sections 243 and 331 of this title.

2. The final decree shall contain a finding in substantially the following form:

a. That notice to creditors as required by Sections 243 and 331 of this title was given by the personal representative, including notice by mail to all

creditors, if any, known to the personal representative as of the date said notice was filed with the district court clerk for the county in which the probate is pending, at their respective last-known addresses; and

b. That all claims not filed within the time permitted for the presentation of claims are nonsuited, void and forever barred, except as otherwise provided in this title or any claim for which payment is approved in this decree pursuant to Section 335 of this title.

3. A final decree which fails to contain the finding required by this section shall be voidable.

4. If the affidavits required by Section 332 of this title are filed in the probate proceeding for the decedent's estate prior to the entry of the final decree and the final decree contains the findings required by this section, the failure of a personal representative to give actual notice to a creditor shall not impair the marketability of the title to any property, real or personal, distributed from the estate.

5. Marketability of the title to any property, real or personal, sold during the administration of an estate shall not be impaired or affected by the requirements of this title for giving notice to creditors of a decedent.

Added by Laws 1988, c. 228, § 18, emerg. eff. June 22, 1988. Amended by Laws 1992, c. 395, § 12, eff. Sept. 1, 1992.

§58-633. Delivery of estate to foreign executor or administrator - Sale of real estate and delivery of proceeds.

Upon application for distribution, after final settlement of the accounts of administration, if the decedent was a nonresident of this state, leaving a will which has been duly proved or allowed in the state of his residence, and an authenticated copy thereof has been admitted to probate in this state, or if the decedent died intestate, and an administrator has been duly appointed and qualified in the state of his residence, and it is necessary, in order that the estate, or any part thereof, may be distributed according to the will, or if the court is satisfied that it is for the best interests of the estate, that the estate in this state should be delivered to the executor or administrator in the state or place of the decedent's residence, the court may order such delivery to be made, and, if necessary, order a sale of the real estate, and a like delivery of the proceeds. The delivery, in accordance with the order of the court, is a full discharge of the executor or administrator with the will annexed or administrator, in this state, in relation to all property embraced in such order, which, unless reversed on appeal binds and concludes all parties in interest. Sales of real state, ordered by virtue of this section, must be made in the same manner as other sales of real estate of decedents by order of the court.

R.L.1910, § 6465; Laws 1935, p. 6, § 1.

§58-634. Petition and notice for decree of distribution.

The order or decree may be made on the petition of the executor or administrator, or any person interested in the estate. Notice of the application must be given by publication, if the court so directs. If partition be applied for, as provided in this article, the decree of distribution shall not divest the court of jurisdiction to order partition, unless the estate is finally closed.
R.L.1910, § 6466; Laws 1969, c. 302, § 25, eff. Jan. 1, 1970.
R.L.1910, § 6466; Laws 1969, c. 302, § 25, eff. Jan. 1, 1970.

§58-634.1. Judgment creditor of heir, legatee or devisee - Petition.

A judgment creditor of an heir, legatee or devisee of an estate shall, in addition to any other remedies now or hereafter provided by law, have the right to petition in probate for total distribution of the estate in the same manner and to the same extent that any person interested in the estate may do under the probate procedure. For the purpose of this act, a judgment creditor means a person who has reduced his claim to a final judgment.
Laws 1970, c. 171, § 1, emerg. eff. April 10, 1970.

§58-635. Taxes paid before decree.

Before any decree of distribution of an estate is made, the district court must be satisfied, by the oath of the executor or administrator, or otherwise, that all state, county, school and municipal taxes, legally levied upon personal property of the estate, and all income and estate taxes due the State of Oklahoma have been fully paid or arrangements satisfactory to the court have been made to secure the payment of same. For deaths occurring on or after January 1, 2010, no release of estate tax liability is necessary pursuant to Section 5 of this act.
R.L.1910, § 6467. Amended by Laws 1953, p. 243, § 56; Laws 1955, p. 301, § 6; Laws 2010, c. 436, § 2, eff. July 1, 2010.

§58-652. Partition of common and undivided estates - Procedure.

Whenever an estate, or any part thereof, consisting of either real or personal property, is assigned by the decree of distribution to two or more persons, in common and undivided, such estate may be partitioned in the same proceeding on the petition of any interested person in the manner provided by 12 O.S.1961, Sections 1501 et seq.
Laws 1969, c. 302, § 35, eff. Jan. 1, 1970.

§58-661. Settlement of advancements.

All questions as to advancements made or alleged to have been made by the decedent to his heirs may be heard and determined by the county court, and must be specified in the decree assigning and

distributing the estate; and the final judgment or decree of the district court, or in case of an appeal, of the district court or Supreme Court, is binding on all parties interested in the estate.
R.L.1910, § 6479.

§58-671. Agent appointed for nonresident.

When any estate is assigned or distributed by a judgment or decree of the district court, to any person residing out of and having no agent in this state, and it is necessary that some person should be authorized to take possession and charge of the same for the benefit of such absent person, the court may appoint an agent for that purpose, and authorize him to take charge of such estate as well as to act for such absent person in the distribution.
R.L.1910, § 6480.

§58-672. Bond and allowances of agent.

The agent must first give a bond to the State of Oklahoma, to be approved by the judge of the district court, conditioned that he shall faithfully manage and account for the estate. The court appointing such agent may allow a reasonable sum out of the profits of the estate for his services and expenses.
R.L.1910, § 6481; Laws 1963, c. 132, § 1.

§58-673. Sale of property unclaimed for a year.

When personal property remains in the hands of the agent unclaimed for a year, and it appears to the court that it is for the benefit of those interested, it shall be sold under the order of the court and the proceeds, after deducting the expenses of the sale allowed by the court, must be paid into the State Treasury. When the payment is made, the agent must take from the Treasurer duplicate receipts one of which he must file in the office of the State Treasurer, and the other in the district court.
R.L.1910, § 6482; Laws 1979, c. 47, § 34, emerg. eff. April 9, 1979.
R.L.1910, § 6482; Laws 1979, c. 47, § 34, emerg. eff. April 9, 1979.

§58-674. Agent to render account.

The agent must render to the district court appointing him, annually, an account, showing:

1. The value and character of the property received by him, what portion thereof is still on hand, what sold, and for what.
2. The income derived therefrom.
3. The taxes and assessments imposed thereon, for what, and whether paid or unpaid.
4. Expenses incurred in the care, protection and management thereof, and whether paid or unpaid.

When such account is filed, the district court may examine witnesses and take proofs in regard to it; and if satisfied from such

accounts and proofs that it will be for the benefit and advantage of the persons interested therein, the court may, by order, direct a sale to be made of the whole or such parts of the real or personal property as shall appear to be proper, and the purchase money to be deposited in the State Treasury, to be receipted for and the receipts filed as in like cases before provided.
R.L.1910, § 6483.

§58-675. Liability of agent on bond.
The agent is liable on his bond for the care and preservation of the estate while in his hands, and for the payment of the proceeds of the sale, as required in the preceding sections, and may be sued thereon by any person interested.
R.L.1910, § 6484.

§58-676. Claimant of property.
When any person appears and claims the money paid into the treasury, the district court making the distribution must inquire into such claim, and, being first satisfied of his right thereto, must grant him a certificate to that effect, under its seal; and upon the presentation of the certificate to him, the State Treasurer shall issue a warrant for the amount.
R.L.1910, § 6485; Laws 1979, c. 47, § 35, emerg. eff. April 9, 1979.

§58-677. Petition by nonresident - Contents - Hearing - Objections.
A. Title to Oklahoma property owned by a nonresident may be passed by the filing of a petition having attached thereto a duly certified copy of the last will and testament, an order admitting the will to probate and an order distributing the estate from the domiciliary probate proceeding, or if the decedent died intestate, by attaching a duly certified copy of the order appointing the personal representative and an order distributing estate from the domiciliary estate.
B. The petition shall contain:
1. The jurisdictional facts;
2. A statement whether the person named as personal representative consents to act, or renounces his right to letters, or if it is even necessary for a personal representative to be appointed;
3. If necessary, a statement stating that if the domiciliary personal representative renounces his right to act, the personal representative may waive such right in favor of a resident of the State of Oklahoma;
4. The names, ages and residences of all the heirs, legatees and devisees of the decedent so far as known to the petitioner, including the heirs, legatees and devisees named in the last will and testament

or determined in the order determining heirs issued in the domiciliary estate;

5. The description, probable value and character of the property, subject to the jurisdiction of the Oklahoma probate court;

6. The name and address of the person for whom letters are prayed; and

7. An affidavit from the domiciliary personal representative that notice to all creditors, including Oklahoma creditors, known or reasonably ascertainable, has been given as required by the domiciliary state. Provided, however, if the domiciliary state lacks a procedure for giving notice by mail to Oklahoma creditors, known or reasonably ascertainable, then notice to such creditors shall be given pursuant to Sections 331, 331.1, 331.2, 332, 333, 334, 335, 337, 338 and 351 of this title or there shall be filed an affidavit by the domiciliary personal representative that there is no Oklahoma creditor known to or reasonably ascertainable by the domiciliary personal representative. For purposes of this section, the definitions contained in subsection A of Section 331.1 of this title shall apply.

C. The petition shall be in writing and signed by the applicant or his counsel.

D. Upon the filing of the petition, the court shall issue an order setting the matter for hearing not less than twenty (20) days thereafter, requiring publication of a notice one time, not less than twenty (20) days prior to the date of hearing. Notice of hearing shall be mailed to all devisees, legatees and heirs at law, including those named in the last will and testament or in the order determining heirs, not less than twenty (20) days prior to the date of such hearing. If there are devisees, legatees or heirs at law for which an address is not known, publication of the notice of hearing shall constitute notice to such persons or entities.

E. If an interested party or creditor does not file a written objection to the entry of an order distributing Oklahoma property, in accordance with the documents from the domiciliary estate attached to the petition, on or before the hearing date, the court shall enter an order distributing the Oklahoma property in accordance with the last will and testament of the decedent, and if the decedent died intestate, in accordance with the laws of intestate succession of this state.

F. If a written objection is filed by an interested party or creditor, at the hearing on the petition, the court shall determine if such objection has merit. If the court so determines, a personal representative shall be appointed and the proceeding shall be conducted in accordance with this title. If the objection filed by an interested party is withdrawn at the hearing on the petition, or if the court finds and adjudicates that such objection has no merit, the court shall enter an order distributing the Oklahoma property in

accordance with the provisions hereinbefore set forth, and in that event, such order shall be appealable to the Supreme Court of the State of Oklahoma in the same manner as other final orders.

G. The court shall not be required to hold a hearing on any written objection on the date the petition is set for hearing, but may set the matter for hearing at a later date, and shall, if requested by the objecting party, set the matter for hearing at a later date. If the objection is set for hearing at a later date, the hearing shall be held within thirty (30) days after the date the hearing on the petition was originally set, unless the court finds that such hearing shall be further delayed for good cause.

H. If the court, upon hearing objection to the petition, finds and determines that the objection has merit, the court shall appoint a personal representative and the estate shall be conducted in accordance with the law as it applies to probate of an estate of a resident of the State of Oklahoma.

I. If the domiciliary probate proceeding has not been concluded, the petition as described in this section may be filed without having attached thereto a duly certified copy of the order distributing estate and determining heirs. In such event:

1. At the hearing on the petition the court may appoint a personal representative for the estate to administer it in accordance with the law as it applies to estates of Oklahoma residents; or

2. The court may enter an order finding that the petitioner has requested no action be taken in the proceeding until the domiciliary estate is closed and a duly certified copy of the order distributing estate and determining heirs is filed in the proceeding. Upon the order being filed, the court shall set the matter for hearing for the purpose of entering an order distributing Oklahoma property, which hearing shall be held not less than twenty (20) days after the date of the order. Notice of the hearing shall be mailed to all of the devisees, legatees and heirs at law as named in the last will and testament and determining heirs as entered in the domiciliary proceeding, and, if the address of any of the devisees, legatees or heirs is unknown, the order for hearing shall be published not less than twenty (20) days prior to the date of the hearing.

J. If an interested party or creditor files a written objection, the written objection shall be heard and acted upon as set forth in this section.

Laws 1980, c. 310, § 5, eff. Oct. 1, 1980; Laws 1989, c. 276, § 6, eff. Nov. 1, 1989; Laws 1993, c. 345, § 10, eff. Sept. 1, 1993.

§58-691. Discharge of representative.

When the estate has been fully administered, and it is shown by the executor and administrator, by the production of satisfactory vouchers, that he has paid all sums of money due from him, and delivered up under the order of the court, all the property of the

estate to the parties entitled, and performed all the acts lawfully required of him, the court must make a judgment or decree discharging him from all liability to be incurred thereafter.
R.L.1910, § 6486.

§58-692. Property discovered after final settlement.
The final settlement of an estate, as hereinbefore provided, shall not prevent a subsequent issue of letters testamentary or of administration, or of administration with the will annexed if other property of the estate discovered, or if it become necessary or proper for any cause that letters should be again issued.
R.L.1910, § 6487.

§58-692.1. Title to omitted property without subsequent letters.
In the event any property is not specifically described in the inventory or in the final decree or in any other part of the proceedings, if the order or decree names the heirs, or devisees or legatees and the proportions or parts they are entitled to have distributed to them in the residue of the estate, the title of said omitted property is established in the heirs, devisees or legatees in the proportions or parts named, without the necessity of the issuing or subsequent letters testamentary, or of administration, or of administration with the will annexed.
Laws 1953, p. 253, § 1.

§58-693. Disposition of monies due minor without guardian - Person whose whereabouts is unknown - Person refusing to accept and receipt - Investment of funds - Dead heirs or legatees.
A. Whenever a final account and order of distribution shall direct the payment of monies to a minor, and no person shall within ninety (90) days thereafter become the legal and qualified guardian for the minor, so that the executor or administrator may be discharged, the court may direct the executor or administrator to prepare an order directing the county treasurer to make the deposit of funds in a specified institution and for a specified term. Upon receipt of the order, the court clerk shall make a temporary deposit in the case, and forward the court's order to the county treasurer for deposit of the funds in a specified institution for a specified term, with the same effect as though taken from a legally-qualified guardian of the minor; and the treasurer shall hold the monies in trust for the minor until a guardian shall be appointed and call for the same, or until the minor shall become of age and demand the same; provided, that all the monies in the hands of the treasurer at the expiration of the treasurer's term of office must be turned over to the successor in office.
B. Whenever a final account and order of distribution shall direct the payment of monies to a legatee, heir, creditor, or

claimant, whose address or whereabouts is not known, or who will not accept and receipt for said monies within ninety (90) days thereafter, so that the executor or administrator may be discharged, the court may direct the executor or administrator to prepare an order directing the county treasurer to make the deposit of funds in a specified institution and for a specified term. Upon receipt of the order, the court clerk shall make a temporary deposit in the case, and forward the court's order to the county treasurer for deposit of the funds in a specified institution for a specified term, with the same effect as though taken from the person; and the treasurer shall hold the monies in trust for the person until a legal or personal representative shall demand and accept the same; provided, that all such monies in the hands of the treasurer at the expiration of the treasurer's term of office must be turned over to the successor in office.

C. In the event no person qualified to receive money deposited with the court clerk makes demand therefor within thirty (30) days after receipt by the court clerk and the deposit is in excess of One Hundred Dollars ($100.00), the court clerk is authorized and directed to invest such funds in one or more savings accounts or certificates of deposit in a bank or savings and loan association whose deposits are insured by an agency of the federal government. When the person legally entitled thereto makes request upon the court clerk, the account or fund, together with all accumulations , shall be paid over to the person legally entitled thereto upon the court clerk taking a receipt in full for such payment, which receipt shall be filed in and become a part of the records of the case.

D. Whenever a final account and order of distribution based thereon shall direct the payment of monies to an heir or legatee who has died during the pendency of the probate proceedings, and no person shall within ninety (90) days thereafter become the legal and qualified personal representative of the deceased heir or legatee, so that the executor or administrator may be discharged, the court may make an order directing the executor or administrator to deposit such money in the hands of the court clerk, taking a receipt therefor, with the same effect as though taken from a legally-qualified personal representative of the heir or legatee; and the clerk shall hold such monies in trust until a personal representative shall demand and accept the same; provided, that all such monies in the hands of the court clerk at the expiration of the court clerk's term of office must be turned over to the successor in office.

Added by Laws 1915, c. 276, § 1. Amended by Laws 1941, p. 231, § 1; Laws 1968, c. 396, § 1, emerg. eff. May 17, 1968; Laws 1972, c. 235, § 1, emerg. eff. April 7, 1972; Laws 1995, c. 286, § 13, eff. July 1, 1995.

§58-694. Search for minor.

If no demand shall be made for such monies within one (1) year after the time it shall appear from the records of such estate that such minor should be of age, the court clerk shall make a diligent endeavor to ascertain his whereabouts, and if found, notify him of his right of such money.
Laws 1915, c. 276, § 2.

§58-695. Death of minor - Disposition of moneys.
Should a minor die having money thus deposited in the hands of the court clerk, the same shall be delivered to his personal representative.
Laws 1915, c. 276, § 3.

§58-701. Orders and decrees, requisites of.
Orders and decrees made by the district court, or the judge thereof, need not recite the existence of facts, or the performance of acts upon which the jurisdiction of the court or judge may depend, but it shall only be necessary that they contain the matters ordered or adjudged, except as otherwise provided in this chapter. All orders and decrees of the court or judge must be entered at length in the minute book, and upon the close of each regular or special term the judge must sign the same.
R.L.1910, § 6489; Laws 1953, p. 243, § 57.

§58-702. Publications, how made.
When any publication is ordered, such publication must be made daily or otherwise, as often during the prescribed period as the paper is regularly issued, unless otherwise provided in this chapter. The court or judge may, however, order a less number of publications during the period. And in all cases where notice is required by this chapter to be given by publication, the petitioner, administrator, executor or guardian may designate the newspaper in which such notice is to be published.
R.L.1910, § 6490.

§58-703. Recorded decree is notice to all persons.
When it is provided in this chapter that any order or decree of a district court or judge, or a copy thereof, must be recorded in the office of the county register of deeds, notice is imparted to all persons of the contents thereof, from the time of filing the same for record.
R.L.1910, § 6491.

§58-704. Citation must contain what.
Citations must be directed to the person to be cited, signed by the judge; and issue under the seal of the court, and must contain:
1. The caption of the proceeding.

2. A brief statement of the nature of the proceeding.

3. A direction that the person cited appear at a time and place specified.

R.L.1910, § 6492.

§58-705. Service of citation.

The citation must be served in the same manner as a summons in a civil action.

R.L.1910, § 6493.

§58-706. Personal notice, how given.

When a personal notice is required, and no mode of giving it is prescribed in this chapter, it must be given by citation.

R.L.1910, § 6494.

§58-707. Time of service of citation.

When no other time is specially prescribed in this chapter, citations must be served at least five (5) days before the day set for the hearing.

R.L.1910, § 6495; Laws 1972, c. 116, § 1, emerg. eff. March 31, 1972.

§58-707.1. Persons who may serve - Proof of service.

Whenever personal service of a notice or citation is prescribed in any section of the probate code, service shall be made by any person not personally interested therein unless service of the notice by a sheriff is ordered by the court. Proof of such service by a person other than the sheriff shall be made by affidavit of the person making the service.

Laws 1953, p. 254, § 1.

§58-708. Description of real property in publication.

When a complete description of the real property of an estate sought to be sold has been given and published in a newspaper, as required in the order to show cause why the sale should not be made, such description need not be published in any subsequent notice of sale, or notice of a petition for the confirmation thereof. It is sufficient to refer to the description contained in the publication of the first notice, as being proved and on file in the court.

R.L.1910, § 6496.

§58-709. Trials and findings - Judgments, how enforced.

All issues of fact joined in a probate proceeding must be tried by the court, and in all such proceedings, the party affirming is plaintiff, and the one denying or avoiding is defendant. After the hearing, the court shall give in writing the findings of fact and conclusions of law, and judgments thereon, as well as for costs, may be entered and enforced by execution or otherwise, by the court, as

in civil actions. If the issues are not sufficiently made up by the written pleadings on file, the court, on due notice to the opposite party, must settle and frame the issues to be tried, and upon which the court may render judgment.
R.L.1910, § 6497; Laws 1972, c. 116, § 2, emerg. eff. March 31, 1972.

§58-710. Attorney appointed by the court, when.

At or before the hearing of petitions and contests for the probate of wills; for letters testamentary or of the administration; for sales of real estate and confirmation thereof; settlements, partitions and distributions of estates; and all other proceedings where all the parties interested in the estate are required to be notified thereof, the court may, in its discretion, appoint some competent attorney-at-law to represent in all such proceedings the devisees, legatees, heirs, or creditors of the decedent, who are minors and have no general guardian in the county, or who are nonresidents of the state, and those interested, who, though they are neither such minors or nonresidents, are unrepresented. The order must specify the names of the parties for whom the attorney is appointed, who is thereby authorized to represent such parties in all such proceedings had subsequent to his appointment. The attorney may receive a fee to be fixed by the court for his services, which must be paid out of the funds of the estate as necessary expenses of administration, and upon distribution may be charged to the party represented by the attorney. If for any cause it becomes necessary, the district court may substitute another attorney for the one first appointed, in which case the fee must be proportionately divided. The nonappointment of an attorney will not affect the validity of any of the proceedings.
Amended by Laws 1989, c. 94, § 1, eff. Nov. 1, 1989.

§58-711. Recording of judgment or decree or notice of judgment or decree relating to real property.

When a judgment or decree is made, setting apart and defining the homestead, confirming a sale, making distribution of real property, or determining any other matter affecting the title to real property, a certified copy of the same must be recorded in the office of the county clerk of the county in which the real property is situated. A certified copy of any such judgment or decree may be made by the court clerk as to real property in any one county without including therein the description of lands located in any other county, such certificate reciting that the same is a true copy of such instrument insofar as the same relates to real property in such county. Instead of filing the judgment or decree in the office of the county clerk where the real property described in the judgment or decree is located, a notice of the judgment or decree may be filed in the office of the county clerk of any county where the real property

described in the judgment or decree is located. The notice shall provide the name of the decedent in the probate proceeding, the court, case number, the date that the judgment or decree was entered, a legal description of the real property located in the county where the notice is to be filed without including the description of real property located in any other county, and the name and address of the party or parties holding title to such real property as set forth in the judgment or decree.
R.L. 1910, § 6499. Amended by Laws 1953, p. 243, § 58; Laws 1998, c. 359, § 7, eff. Nov. 1, 1998.

§58-712. Revocation of letters for contumacy.

Whenever an executor, administrator, or guardian is committed for contempt, in disobeying any lawful order of the district court or the judge thereof, and has remained in custody for thirty (30) days without obeying such order or purging himself otherwise of the contempt, the district court may, by order reciting the facts, and without further showing or notice, revoke his letters and appoint some other person, entitled thereto, executor, administrator or guardian in his stead.
R.L.1910, § 6500.

§58-713. Proof of death of person in military, naval or maritime service - Time for distribution.

In all proceedings brought for the administration of the estate of any person who dies intestate, or for the probate of the will of any person who shall die testate, or for the adjudication of the fact of the death of any life tenant or joint tenant of real estate, where such person shall have been in the military, naval or maritime service of the United States at the time of death, the official notice of death issued by or received from the United States Government or any department thereof, shall be admissible in evidence in such proceedings, and shall be prima facie evidence of the fact of death. Provided, however, that no decree distributing the estate of such deceased person in either administration proceedings or under the provisions of any will of such decedent, shall be entered until a period of two (2) years shall elapse from the reported death of such decedent.
Laws 1945, p. 188, § 1.

§58-714. Joinder of proceedings relating to different estates.

Proceedings for probate of wills of two or more deceased persons may be joined and united in one proceeding, and proceedings for administration of estates of two or more deceased persons who died intestate may be joined and united in one proceeding, and proceedings for probate of wills of one or more deceased persons and proceedings for the administration of estates of one or more deceased persons who

died intestate may be joined and united in one proceeding, (a) where the estate or estates left by one or more of such deceased persons or some part thereof, has been or is to be received from another of such deceased persons, immediately or remotely, either by will or intestate succession, and no probate or administration proceedings have been had or commenced upon the estate of any of such deceased persons, and/or (b) where two or more deceased persons died seized of undivided interests in property, real or personal, as tenants in common or otherwise, and no probate or administration proceedings have been had or commenced on the estate of either or any of them, and one or more of the heirs, devisees or legatees of such deceased persons are the same; and the court may grant letters testamentary and/or letters of administration, as the case may be, upon such estates and they may be administered in one proceeding; provided, that, in all cases herein mentioned the court granting such letters has jurisdiction of each of the proceedings so united.
Laws 1945, p. 190, § 1.

§58-715. Setting out or disclosing facts.

In all cases in which proceedings for probate or administration are joined or united as provided in this act, the proceedings shall set out or disclose all facts as to each separate estate that would be required if such proceedings were separately conducted.
Laws 1945, p. 190, § 2.

§58-716. Orders fixing date of hearing and notice thereof - Signing.

Whenever the probate code requires that an order setting date of hearing and giving notice thereof be signed by a judge, the chief judge in the county may by judicial order provide that such order or notice may be signed by the court clerk or his deputy affixing his signature beneath the place where the judge's name appears followed with the word "by;" and then followed with the signing officer's title. Where both an order and notice as to any particular act provided for in this title are required, allowed, or authorized by law or by order of the court, said order and notice may be combined in one document.
Laws 1973, c. 45, § 1, emerg. eff. April 27, 1973.

§58-717. Computation of time.

The time within which an act is to be done, as provided for in Title 58 of the Oklahoma Statutes, shall be computed by excluding the first day and including the last day. If the last day is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes, it shall be excluded. The provisions of this section are hereby declared to be a clarification of the law as it existed prior to the effective date of this act and shall not be considered or construed to be a change of the law as it existed prior to the

effective date of this act. Any action or proceeding arising under Title 58 of the Oklahoma Statutes prior to the effective date of this act for which a determination of the period of time prescribed by this section is in question or has been in question due to the enactment of Section 20, Chapter 293, O.S.L. 1999, shall be governed by the method for computation of time as prescribed by this section.
Added by Laws 2000, c. 260, § 5, emerg. eff. June 1, 2000.

§58-718.1. Proceedings for appointment of executor or administrator - Notice to creditors.

From and after the effective date of this act the court clerk shall when requested by any interested party or his attorney be required to record all petitions for probate of wills or for the appointment of administrators, all notices, proofs of publication or of mailing or posting, all orders in connection with said proceedings and all other papers from the filing of the petition aforesaid to the appointment and qualification of any executor or executors, or administrator or administrators, as well as notices to creditors, with proof of publication and proof of posting and estate tax receipts or exemption certificates.
Laws 1949, p. 386, § 1.

§58-718.2. Accounting and distribution.

Said clerk shall when properly requested so to do likewise be required to record all final accounts and petitions for distribution, all notices, proofs of publication or of posting thereof, and any petition for partial distribution and notices, together with proofs of posting and publication thereof, and all orders of distribution, either on petition for general or partial distribution of said estate.
Laws 1949, p. 386, § 2.

§58-718.3. Other papers, pleadings, and orders.

He shall also record any other papers, pleadings and orders which the court shall order recorded.
Laws 1949, p. 386, § 3; Laws 1953, p. 244, § 59.

§58-718.4. Certified copies as evidence.

Any certified copy of any of the papers and pleadings mentioned above shall be received in evidence in all instances where the original would be admissible.
Laws 1949, p. 387, § 4; Laws 1953, p. 244, § 60.

§58-719.1. Service of notices on Governor and Attorney General.

In all proceedings for the administration of estates of deceased persons, or for the probate, or interpretation, of wills of deceased persons, in all courts of this state, wherein it appears from the

petition for admission of a will to probate, or from the petition or other pleading asking for the interpretation of a last will and testament, that the State of Oklahoma is named as a beneficiary in such will, or wherein it appears from the petition for appointment of administrator, or otherwise, that an intestate left no spouse or kindred surviving, or that it is not known whether or not the intestate left a spouse or kindred surviving or that the names and whereabouts of the spouse or kindred, if any, of the intestate are unknown, or wherein it otherwise appears that the State of Oklahoma is, or may be, entitled to share in the distribution of the estate of the decedent, any and all notices provided for by statute to be served, personally, or by mail, upon persons or parties interested in the estate shall be served upon the State of Oklahoma by mailing true and correct copies of such notice, by registered mail, postage prepaid, to the Governor of the State of Oklahoma, and to the Attorney General of the State of Oklahoma, Capitol Building, Oklahoma City, Oklahoma, and, where the jurisdiction of the court to enter a judgment, order or decree in such cases depends upon the giving of proper notice to all persons or parties interested in an estate, such jurisdiction shall not vest in any such court, as to the State of Oklahoma, unless and until the notice provided by law has been given to the State of Oklahoma in the manner prescribed herein. If the notice provided for herein be given in the manner prescribed herein, the jurisdiction of the court, as to the State of Oklahoma as a party entitled to share, or possibly entitled to share, in the distribution of the estate of the decedent, shall be the same as it is as to other persons or parties entitled to share, or possibly entitled to share, in the distribution of such estate, when properly served with notice required by law.
Laws 1953, p. 249, § 1.

§58-719.2. Consent by Governor to sale of property of estate.

In any proceeding for the administration of the estate of a deceased person, whether testate or intestate, wherein it appears that the State of Oklahoma is, or may be, entitled to share in the distribution of such estate, the Governor of the State of Oklahoma is hereby authorized and empowered, in his sole discretion, to object, or to consent, upon behalf of the State of Oklahoma as such interested party, to the sale of any real or personal property belonging to such estate.
Laws 1953, p. 250, § 2.

§58-721. Appealable judgments and orders of district court.

An appeal may be taken from the following judgments or orders of the district court:

1. Granting, or refusing, or revoking letters testamentary or of administration, or of guardianship, or conservatorship;

2. Admitting, or refusing to admit, a will to probate;

3. Against or in favor of the validity of a will or revoking the probate thereof;

4. Against or in favor of setting apart property, or making an allowance for a widow or child;

5. Against or in favor of directing the partition, sale or conveyance of real property;

6. Settling an account of an executor, or administrator or guardian;

7. Refusing, allowing or directing the distribution or partition of an estate, or any part thereof or the payment of a debt, claim, legacy or distributive share;

8. Refusing or allowing the release of estate tax liability;

9. An order determining liability for estate taxes made pursuant to Section 268 of this title; or

10. From any other judgment, decree or order of the court in a probate cause, or of the judge thereof, affecting a substantial right.

R.L.1910, § 6501; Laws 1968, c. 413, § 1, eff. Jan. 13, 1969; Laws 1980, c. 286, § 1, eff. Oct. 1, 1980; Laws 1991, c. 148, § 4, eff. Sept. 1, 1991.

§58-722. Party in default may not appeal.

Any party aggrieved may appeal as aforesaid, except where the decree or order of which he complains, was rendered or made upon his default.

R.L.1910, § 6502.

§58-723. Vacation of judgment.

A person interested in the estate or funds affected by the decree or order, who was not a party to the special proceeding in which it was made, but who was entitled by law to be heard therein, upon his application, or who has acquired, since the decree or order was made, a right or interest which would have entitled him to be heard, if it had been previously acquired, may move to reopen the judgment within thirty (30) days from the date of the decree or order. The facts which entitle such person to vacate the judgment must be shown by an affidavit which must be filed with the motion to vacate.

R.L.1910, § 6503; Laws 1953, p. 244, § 61; Laws 1968, c. 413, § 2, eff. Jan. 13, 1969.

§58-724. Probate appeals taken as appeals in other cases.

An appeal in a probate proceeding must be taken as appeals in other cases in the district court.

R.L.1910, § 6504; Laws 1968, c. 413, § 3; Laws 1969, c. 302, § 26, eff. Jan. 1, 1970.

§58-731. Appeal does not stay issue of letters.

An appeal from the decree or order admitting a will to probate, or granting letters testamentary, or letters of administration, does not stay the issuing of letters where, in the opinion of the judge, manifested by an entry upon the minutes of the court, the preservation of the estate requires that such letters should issue. But the letters so issued do not confer power to sell real property by virtue of any provision in the will, or to pay or satisfy legacies or to distribute the property of the decedent among the next of kin, until the final determination of the appeal.
R.L.1910, § 6511; Laws 1968, c. 413, § 5, eff. Jan. 13, 1969.

§58-732. Appeal does not stay order revoking letters, etc.

An appeal from a decree or order revoking probate of a will, letters testamentary, letters of administration or letters of guardianship, or from a decree or order suspending or removing an executor, administrator or guardian, or removing or suspending a testamentary trustee or a person appointed by the judge, or appointing an appraiser of personal property, does not stay the execution of the decree or order appealed from.
R.L.1910, § 6512; Laws 1968, c. 413, § 6, eff. Jan. 13, 1969.

§58-741. Reversal for error does not affect lawful acts.

When the order or decree appointing an executor, or administrator, or guardian, is reversed on appeal for error, and not for want of jurisdiction of the court, all lawful acts in administration upon the estate, performed by such executor, or administrator or guardian, if he have qualified, are as valid as if such order or decree had been affirmed.
R.L.1910, § 6521.

§58-882. Renumbered as § 4-709 of Title 30 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§58-898.1. Renumbered as § 2-116 of Title 30 by Laws 1988, c. 329, § 134, eff. Dec. 1, 1988.

§58-901. District courts may approve deeds.

Jurisdiction is hereby conferred upon the district courts of this state to approve the deeds of adult full-blood Indians conveying their inherited lands as now provided by the laws of the United States.
Laws 1915, c. 198, § 1.

§58-902. Petition for approval - Requirements.

All petitions for the approval of deeds to lands inherited by full-blood Indian heirs shall be verified by one or more grantors, and shall contain the following information:

The names of all grantors and grantees.

The description of the land to be conveyed.

The character and extent of the interest to be conveyed.

The roll number and quantum of blood of the grantor and decedent.

The permanent residence of the decedent at the time of death.

The relationship of each grantor to the decedent and the names and relationship to the decedent of each heir who is not a grantor.

Laws 1915, c. 198, § 2.

§58-903. Hearings in district court - Terms of sale.

The district court shall establish a date upon which all petitions for the approval of deeds to lands inherited by full-blood Indians shall be heard which date shall be at least twice per month. At a hearing the court shall take the testimony of disinterested parties to establish the value of the lands to be conveyed, and may in its discretion call in any United States probate attorney as counsel for grantor. The attendance of the grantor or any other person to testify in such matters may be required in like manner as if his testimony were to be heard in a civil action. The court may decline to approve any deed when in his judgment the price is not commensurate with his fair judgment and the grantor is not an heir of deceased. Provided, the district court may authorize the sale and conveyance of any such land for cash or one-fourth (1/4) cash and the balance in yearly payments of one-fourth (1/4) each, with interest on such deferred payments at the rate of not less than six percent (6%) per annum; Provided further, that in all sales upon deferred payments such payments shall be secured by first mortgage upon the lands conveyed.

Laws 1915, c. 198, § 3.

§58-905. This law exclusive - Repeal of conflicting laws - Court rules.

The provisions of this act shall constitute the exclusive law governing the procedure relative to the conveyance of inherited lands by adult full-blood Indian heirs. All provisions of law heretofore enacted in conflict herewith are hereby repealed and set aside, and no court shall have the power to promulgate or enforce any rules in conflict with this act.

Laws 1915, c. 198, § 5.

§58-911. Petition for determination - Hearing - Notice - Order and decree - Filing.

In all cases where any person being a life tenant or joint tenant in any interest in real property, including but not limited to

mortgages owned by two or more persons as joint tenants with right of survivorship, shall die either testate or intestate, leaving no property or estate on which administration proceedings have been had or commenced, any of the remaindermen having an interest in the real estate subject to such life estate, or any survivor of such joint tenancy, or any person claiming any right, title or interest in said real estate by, through or under such remainderman or survivor may have the fact of the death of said life tenant or joint tenant judicially determined by filing a petition in the district court of the county in which said real estate or some part thereof is situated, or of the county of the residence of said decedent, alleging the facts of such life estate or joint tenancy, describing such real estate, alleging the death of such life tenant or joint tenant as the case may be, and setting forth the names and addresses, if known, of all of the heirs of said decedent, if intestate, and of his heirs, devisees and legatees, if testate, and of all other persons by him known to claim any interest in said real estate, which petition shall be sworn to by petitioner, his agent or attorney.

Upon the filing of such petition the court shall enter an order fixing the date and hour for hearing same, which date shall be not less than ten (10) days from the date of entry of said order. The court clerk shall thereupon issue a notice under his hand and seal, which notice shall be directed to "the heirs, devisees, legatees and assigns" of said decedent, "and to all persons claiming any right, title or interest in or to the real estate hereinafter described", and shall recite the filing of said petition and the entry of the order setting same for hearing, and shall notify said persons of the date, hour and place of hearing said petition and contain a description of the real estate described therein.

Said notice shall be published in one (1) issue of a newspaper of general circulation in said county, the date of such publication to be at least ten (10) days prior to the date set for said hearing, and at least ten (10) days prior to the date set for said hearing a copy thereof shall be mailed to each of the heirs, devisees, legatees and other persons interested in said real estate as named in said petition, at their respective addresses shown thereon, unless there be filed an affidavit of the petitioner, or his attorney, showing that the post office addresses of any of such persons are unknown to the petitioner or his attorney. Proofs of such publication and of mailing shall be filed in the district court prior to the entry of any order or decree upon said petition.

Upon hearing of such petition being had, the court shall hear the evidence and proof of death, and shall make and enter an order and decree determining the fact of the death of such life tenant or joint tenant, as the case may be, and the termination of the life estate or joint tenancy in said real property, as the case may be, a certified copy of which decree shall be filed in the office of the county clerk

of the county in which said real property or any part thereof is situated.

Such order or decree shall, upon entry, be conclusive of the facts therein found as to all purchasers, encumbrancers or lienors of said real estate acquiring their titles, encumbrances or liens in good faith, relying upon said decree.

Added by Laws 1935, p. 7, § 1, emerg. eff. March 13, 1935. Amended by Laws 1941, p. 232, § 1; Laws 1945, p. 191, § 1; Laws 1996, c. 339, § 14, eff. Nov. 1, 1996.

§58-912. Termination of joint tenancy or life tenancy with remainder interest by affidavit.

A. If title to any interest in real property is held by two or more persons in joint tenancy with right of survivorship, including but not limited to mortgages owned by two or more persons in joint tenancy with right of survivorship, any surviving joint tenant or the personal representative or duly appointed attorney in fact of any surviving joint tenant, may evidence the termination of the interest of a deceased joint tenant in such real property by filing the documents described in subsection C of this section.

B. If title to any real property is held by two or more persons where at least one of them holds a life tenancy interest in such property and at least one of them holds a remainder interest in such property, any surviving life tenant or remainderman, or the personal representative or duly appointed attorney of any survivor of them may evidence the termination of the interest of any deceased life tenant in such real property by filing the documents described in subsection C of this section.

C. A person entitled, by subsection A or B of this section, to evidence the termination of the interest of a decedent in real property pursuant to this section may do so by filing in the office of the county clerk of the county in which said real property is located, the following:

1. A certified copy of the certificate of death of the joint tenant or life tenant issued by the court clerk as prescribed in Article 3 of the Public Health Code, Section 1-301 et seq. of Title 63 of the Oklahoma Statutes, or by the State Department of Health or comparable agency of the place of the death of the joint tenant or life tenant;

2. An affidavit by the surviving joint tenant, life tenant or remainderman or the personal representative or duly appointed attorney in fact of the surviving joint tenant, life tenant or remainderman describing the real property, stating that the decedent named in such certificate of death is one and the same person as the deceased joint tenant or life tenant named in a previously recorded document which created or purported to create such joint tenancy or life tenancy in such real property and identifying such recorded

document by book and page where recorded, that the survivor making or on whose behalf the affidavit is made and the decedent were husband and wife, if such is the case, and the date of death of the deceased joint tenant or life tenant. If the affidavit is filed by a personal representative or duly appointed attorney in fact, the letters of administration, letters testamentary, letters of guardianship or the power of attorney shall accompany the affidavit and be filed with the county clerk. An affidavit properly sworn before a notarial officer shall, notwithstanding the provisions of Section 26 of Title 16 of the Oklahoma Statutes, be received for record and recorded by the county clerk without having been acknowledged and, when recorded, it shall be effective as if it had been acknowledged. An affidavit filed either before or after the effective date of this act which was either acknowledged or sworn or both acknowledged and sworn before a notarial officer is hereby validated and the title to such real property shall be deemed marketable unless otherwise defective; and

3. If such real property is held in joint tenancy other than by two persons only who were husband and wife or other than by two persons only who were husband and wife with one as the life tenant and the other as the remainderman, a waiver or release issued by the Oklahoma Tax Commission of the estate tax lien as to the deceased joint tenant or life tenant must be filed with the affidavit required by paragraph 2 of this subsection, unless the estate tax lien has otherwise been released by operation of law. For deaths occurring on or after January 1, 2010, no release of estate tax liability is necessary pursuant to Section 5 of this act.

D. The filing of the documents described in subsection C of this section shall constitute conclusive evidence of the death of such joint tenant or life tenant and of the termination of the interest of such deceased joint tenant or life tenant in such real property. The title of such real property shall be deemed marketable unless otherwise defective.

Added by Laws 1974, c. 240, § 1. Amended by Laws 1975, c. 12, § 1, eff. Oct. 1, 1975; Laws 1980, c. 286, § 2, eff. Oct. 1, 1980; Laws 1983, c. 20, § 1, eff. Nov. 1, 1983; Laws 1984, c. 231, § 2, eff. Nov. 1, 1984; Laws 1986, c. 227, § 9, eff. Nov. 1, 1986; Laws 1988, c. 73, § 1, eff. Nov. 1, 1988; Laws 1992, c. 274, § 3, eff. Sept. 1, 1992; Laws 1993, c. 345, § 11, eff. Sept. 1, 1993; Laws 1996, c. 339, § 15, eff. Nov. 1, 1996; Laws 2010, c. 436, § 3, eff. July 1, 2010.

§58-912.1. Forms.

The court administrator shall prepare forms for parties using the procedure under this act, which forms shall be reviewed and approved by the Supreme Court and thereafter distributed to all county clerks by the court administrator.

Added by Laws 1983, c. 20, § 2, eff. Nov. 1, 1983.

§58-924. Oil, gas and mineral leases by executors and administrators or guardians - Proceeding in district court - Petition.

Administrators and executors of estates of deceased persons and guardians of the estates of minors and incompetent persons are hereby authorized to sell and execute oil and gas or other mining leases upon the lands belonging to the estates of said deceased persons, or of said minors or incompetent persons, for a term not to exceed ten (10) years and as long thereafter as oil, gas or other minerals may be produced in paying quantities, upon compliance with this act, and the district court in which said guardianship or administration proceedings are pending shall have jurisdiction to order said sale upon the filing of a petition therein alleging that the estate of said deceased person or the estate of said minor or incompetent ward is the owner of the lands which shall be described in said petition, and that the same have a probable value for oil and gas mining purposes, and that the estate of said deceased person or of said ward is not financially able or that it is impractical for said estate to explore said land for oil and gas, and that it is to the best interest of the estate to lease said lands at public auction to the highest bidder for cash, which petition shall be verified by said administrator, executor or guardian, and if it involves lands belonging to the estates of deceased persons, the petition shall set forth the names and post office addresses of the heirs of such deceased persons. If the will of any such deceased person empowers the executor to sell oil and gas or other mineral leases upon the lands of the testator, it shall not be necessary for the executor, or the administrator with the will annexed, to comply with this act, but in such case the sale and execution of the lease shall be deemed to be a sale of property and subject to Section 1299 of Oklahoma Statutes, 1931. The word "land" or "lands" as used herein, includes any oil, gas or other mineral rights or interests in lands which may be leaseable.

Laws 1937, p. 4, § 1.

§58-925. Order of court authorizing lease - Public auction - Notice.

Upon the filing of said petition mentioned in the preceding section, the court in its discretion and upon showing of benefit to the estate of said decedent or ward, shall make an order authorizing and directing said administrator, executor or guardian to sell a lease upon the lands therein described for oil and gas or other mining purposes, said sale to be at public auction to the highest bidder for cash and to be held in the courtroom of said court not less than five (5) days from the making of said order. Notice of such sale shall be given at least five (5) days before said sale by publication one time in a newspaper in said county, and where the lands involved belong to the estate of a deceased person, by mailing to the heirs of such deceased person, if their post office addresses

be known. And if the lands to be leased are situated in any other county than that in which the probate proceeding is pending, then such notices as provided above for such period of time and place shall be published also in the county of the location of the lands. Laws 1937, p. 4, § 2; Laws 1941, p. 234, § 1; Laws 1969, c. 302, § 31, eff. Jan. 1, 1970.

§58-926. Sale of lease to highest bidder - Return of sale - Confirmation and approval by district court.

On the date and at the place specified in the notice for the sale of said oil and gas or other mineral lease, said administrator, executor, or guardian shall offer said lease for sale at public auction and sell the same to the highest bidder for cash, and shall thereupon file a return of sale showing the land upon which said lease was sold, the term of years thereof, the name of the purchaser, and the amount for which the same was sold, and attach to the return a copy of the form of lease proposed to be executed, which return shall thereupon, without further notice, be heard by the district court, and if the court finds that said sale was properly conducted as herein provided, and that the price bid for said lease was not disproportionate to the value thereof, said sale shall be confirmed and said administrator, executor or guardian authorized and directed to execute and deliver said lease, and when said lease is executed the judge of the district court shall endorse his approval thereon. Laws 1937, p. 4, § 3.

§58-927. Validation of prior leases.

Any proceedings heretofore, and since April 24, 1935, had in any district court in connection with the sale and execution of an oil, gas or other mineral lease by an administrator, executor or guardian, and any such lease sold and executed in pursuance thereof, which proceedings and lease are in substantial conformity herewith, are hereby declared to be valid the same as if this act had been in force at the date of said proceedings and lease.
Laws 1937, p. 5, § 4.

§58-928. Unitizing with adjacent lands.

Administrators and executors of the estates of deceased persons and the guardians of the estates of minors and incompetents where such estates include lands, or mineral interests therein, leased for oil and gas purposes are hereby authorized, with the approval of the district court having jurisdiction of the estate involved, to enter into agreements unitizing any part or all of such lands or mineral interests with adjacent lands so that the entire unitized tract may be developed and operated thereafter as a unit for the production of oil and gas, or either of them.
Laws 1945, p. 187, § 1.

§58-928.1. Oil and gas leases having a bonus value not exceeding One Hundred Fifty Dollars - Sale of.

Every court-appointed conservator, administrator, executor or guardian of an estate shall have authority to execute all instruments of conveyance of an oil and gas lease on property of the estate in his trust without notice or court proceedings other than approval of the conveyance by the judge of the court having jurisdiction of the proceeding endorsed on the instrument of conveyance with a finding by the court that the bonus value of the lease does not exceed Five Hundred Dollars ($500.00).

Laws 1974, c. 294, § 1; Laws 1979, c. 258, § 13, emerg. eff. June 5, 1979.

§58-929.1. Sales and agreements by administrators and executors - Approval.

Administrators and executors of the estates of deceased persons and guardians of the estates of minors and incompetents are hereby authorized to sell, as hereinafter provided, oil and gas and mineral leaseholds, or any part hereof, owned by the estate of said deceased person, or by said minor or incompetent and, in connection with said sale, or independently thereof, to enter into transactions and to execute all instruments necessary or advantageous to the estate of said decedent or ward in the operation or development of any oil and gas and mineral leasehold, or any part thereof, owned by the estate of said decedent or ward, including but not limited to joint operating agreements, unitization agreements, repressuring agreements and water-flooding agreements. The term "sale" as used in this act shall not be limited to sales for a cash consideration but may include sales made in consideration of a drilling obligation, oil payment, overriding royalty, exchange of oil and gas and mineral leaseholds, or such other consideration as the court shall find to be for the best interest of the estate of said decedent or ward. All such sales and agreements shall be subject to the approval of the district court in which said administration or guardianship proceedings are pending. If the will of any such deceased person empowers the executor to sell real property, it shall not be necessary for the executor, or the administrator with the will annexed, to comply with this act; but in such case the sales and agreements authorized by this act shall be deemed to be sales of property and subject to the provision of Section 462 of Title 58, Oklahoma Statutes 1961.

Laws 1955, p. 304, § 1; Laws 1961, p. 442, § 1; Laws 1965, c. 272, § 1, emerg. eff. June 23, 1965.

§58-929.2. Filing of verified applications for approval - Contents.

The executor or administrator or guardian after having negotiated the sale of any such leasehold estate or interest therein, or after having entered into any agreement, as authorized in Section One (1) of this act, shall file with the court a verified application for the approval of such sale or agreement. An application for the approval of a sale shall set forth the interest of the estate of said decedent or ward in said leasehold as nearly as same can be determined, the lands covered thereby, the part of or interest in said leasehold being sold, the name of the purchaser, the consideration for the sale, and shall allege that the sale is for the best interest of the estate of said decedent or ward. A copy of the lease or leases and the proposed assignment or conveyance thereof shall be attached to the application. An application for the approval of an agreement shall set forth the interest of the estate of said decedent or ward in the leasehold, the lands covered thereby, a brief statement of the purpose of said agreement and the part of or interest in said leasehold covered thereby, and shall allege that said agreement is for the best interest of the estate of said decedent or ward. A copy of the agreement shall be attached to said application. Where both a sale and agreement or agreements pertain to the same leaseholds, or are the result of the same transaction, a single application may be filed. Upon the filing of any such application the court must fix a day for hearing same pursuant to notice as provided in Section Three (3) of this act.
Laws 1955, p. 304, § 2.

§58-929.3. Notice of hearing an application - Lands in other counties.

Notice of the hearing of an application for approval of any such sale or agreement, or both, shall set forth the date and place of hearing said application, the purpose of said hearing, contain a description of the land involved and refer to the application for further particulars. Ten (10) days prior to the hearing date, notice thereof, together with a copy of the application and all exhibits thereto, shall be mailed to the heirs, devisees and legatees of such deceased person or to the next of kin of said minor or incompetent. Notice shall also be given by publication one time in a newspaper in said county. If the leasehold or interest therein to be sold or included in an agreement covers lands situated in any county other than that in which the probate proceeding is pending, then such notice shall also be given in the county where said lands are located in the same manner and for such period of time as provided above. Proof that notice has been given as herein required shall be filed with the court. Notice by publication required herein may be waived by the court for good cause shown.
Laws 1955, p. 304, § 3; Laws 1969, c. 302, § 32, eff. Jan. 1, 1970.

§58-929.4. Hearing - Appearances - Approval.

On the date and at the place specified in the notice the court shall examine the application for approval of said sale or agreement or both, and all evidence presented in support thereof and in opposition thereto. Any interested person may appear and show cause why such application should not be approved. If the court finds at such hearing that the sale or agreement, or both, is to the best interests of the estate of the decedent or ward he shall enter an order approving said application. Where an application covers both a sale and an agreement or more than one agreement, the application may be approved in part and denied in part. The court shall endorse his approval on any assignment, conveyance or agreement confirmed at said hearing.

Laws 1955, p. 305, § 4.

§58-929.5. Confirmation - Additional bond.

Before confirming any sale under this act, the court may, in its discretion, require the administrator, executor or guardian to file an additional bond in such amount as the court shall prescribe.

Laws 1955, p. 305, § 5.

§58-931. Easements for pipelines, transmission lines, highways and dams - Administrators and executors or guardians - Authority as to.

That administrators and executors of the estates of deceased persons and the guardians of estates, minors and incompetent persons are hereby authorized to enter into contracts with pipeline companies, corporations, conservancy districts, individuals or partnerships or the State of Oklahoma or any subdivision thereof or any municipal corporation, for the construction, operation and maintenance of party walls, pipelines, transmission lines, upstream flood-control dams and lakes, or to enter into contracts with companies, corporations, individuals, partnerships, the State of Oklahoma or any subdivision thereof, or any municipal corporation for the construction, operation and maintenance of wind energy conversion systems, state or county highways, and to sell and dispose of an easement under said contract for said purposes, upon and across the lands or any interest therein belonging to the estates of deceased persons and of minors and incompetents, upon such terms and conditions that said administrators, executors or guardians of such persons may deem reasonable and equitable, and for the best interest of said estates of deceased persons, minors and incompetents.

Added by Laws 1941, p. 233, § 1. Amended by Laws 1955, p. 303, § 1; Laws 1963, c. 214, § 1, emerg. eff. June 11, 1963; Laws 2010, c. 53, § 1, eff. Nov. 1, 2010.

§58-932. Application and hearing on granting of easement - Notice - Approval.

Before entering into any such contracts for such easements aforesaid, an application shall be duly filed in the court in which said proceedings are pending as to said estates, incompetents or minors, duly sworn and signed by the executor, administrator or guardian, as the case may be, and which application shall set forth in detail the nature and character of said contract and conveyance of said easement upon and across the lands of said estates, and the purposes for which the same are to be used and maintained, and under the terms and conditions thereof, and the consideration therefor, and also setting forth the reason showing same to be for the best interests of said estate; thereupon the court shall set said application for hearing and direct that notice thereof be given not less than five (5) days prior to the date of hearing by publication one time in some newspaper published in the county. At the time and place set for said hearing the court shall conduct a hearing upon said application and if, after due consideration of same, the court finds that the granting of said easement for the erection and maintaining of said pipeline, transmission line, upstream flood-control dam or lake, state or county highway upon or across said land, will not result in a material injury to the property of said deceased person, minor or incompetent, and further finds that the consideration therefor is adequate and proper, said court may approve the same and authorize and direct the executor, administrator or guardian to enter into such contract and to execute such grants or conveyances as to carry the same into effect, and authorize and direct said executor, administrator or guardian to deliver same to said persons, individuals, firms or corporations, conservancy districts or the State of Oklahoma or any subdivisions thereof, with whom said easement contracts are entered into and so direct the clerk of said court to enter said order upon the records of said courts. In all instances where the provisions of Section 512 of Title 58, as now or hereafter amended, are applicable, they shall prevail over the provisions of this section.
Laws 1941, p. 233, § 2; Laws 1963, c. 214, § 2; Laws 1969, c. 302, § 33, eff. Jan. 1, 1970.

§58-941. Presumption of death - Issuance of letters testamentary or of administration.

Presumption of death - Any person missing from his usual place of residence and whose address is unknown by his family or those who, in the ordinary course of events, would be expected to know his whereabouts, who is continuously absent and unheard of for a period of seven (7) years or longer, shall be presumed to be dead and the district court, after the expiration of such period, shall have jurisdiction and authority to declare such person to be legally dead and to issue letters testamentary or letters of administration upon the estates of such persons.

Laws 1937, p. 5, § 1.

§58-942. Petition for letters - Venue.

Petition for letters - A petition for letters testamentary or letters of administration may be filed by any relative, creditor or other person interested in the estate of said absent person:

1st: In the county in which said absent person was a resident at the time of his disappearance.

2nd: In the county in which said absent person did, at the time of his disappearance, have property, either real or personal.

Laws 1937, p. 5, § 2.

§58-943. Contents of petition.

The petition for letters testamentary or letters of administration shall show:

1. the jurisdictional facts;

2. the names, ages and residence of the heirs, devisees, or legatees of the decedent, so far as known to the petitioner;

3. a description and probable value and character of the property of the estate belonging to said absent person at the time of his disappearance;

4. the name and address of the person for whom letters testamentary or of administration are prayed;

5. the time and circumstances when the absentee was last seen or heard from;

6. that the absentee has not been seen or heard from for a continuous period of seven (7) years by the persons likely to have seen or heard from the absentee (naming them and their relationship to the absentee) and that the location of the absentee is unknown to those persons and to the petitioner; and

7. a description of the search or the inquiry concerning the location of the absentee.

Laws 1937, p. 5, § 3.

§58-944. Date for hearing - Notice - Proof of publication and mailing.

A. Upon the petition as provided for in Section 943 of this title being filed, the court must fix a day for hearing the same, not less than thirty (30) days from the date of the filing thereof, and shall cause notice of such hearing to be given to such absent person, his heirs, devisees or legatees, and any person or persons interested in his estate by:

1. publishing said notice once each week for three (3) consecutive weeks in a newspaper in said county; and

2. publishing said notice once each week for three (3) consecutive weeks in a newspaper at the last location where the absentee was last heard from; and

3. mailing copies of such notice to the last-known address of the absentee and to all known relatives of said absent person, and all other persons interested in the estate, known to the petitioner, at their last-known place of residence, and deposited in the post office with the postage thereon prepaid by the petitioner, at least twenty (20) days prior to the date of said hearing.

B. The notice must be issued by the court. Proof of publication and of mailing the notices must be made at the hearing.

Laws 1937, p. 6, § 4; Laws 1969, c. 302, § 34, eff. Jan. 1, 1970.

§58-945. Persons entitled to appear.

Who may appear - Any person interested in said estate of said absent person may appear at said hearing and contest the same.

Laws 1937, p. 6, § 5.

§58-946. Hearing - Presumption of death - Search or inquiry - Decree - Issuance of letters testamentary or of administration.

A. At the hearing, the court shall determine whether the absentee is a person who is presumed to be dead. The court may receive evidence and consider the affidavits and depositions of persons likely to have seen or heard from or know the location of the absentee.

B. If the court is not satisfied that a diligent search or inquiry has been made for the absentee, the court may order the petitioner to conduct a diligent search or inquiry and to report the results. The court may order the search or inquiry to be made in any manner that the court determines to be advisable.

C. The costs of a search ordered by the court pursuant to subsection B of this section shall be paid by the estate of the absentee.

D. If, upon said hearing, it appears to the court, upon the evidence offered and of witnesses sworn and examined, that said person for the estate of whom letters testamentary or of administration is asked, has been continuously absent and unaccounted for for a period of more than seven (7) years prior to the date of the filing of said petition, and if it shall further appear upon said hearing that the person for whom letters testamentary or of administration is being asked is qualified, as now provided by law, to act as such, said court shall make and enter a decree declaring such person to be legally dead, and have the full power and authority to issue letters testamentary or of administration to said person, or any other fit and proper person, and that thereafter all further proceedings upon the estate of said absent person shall be had as provided by law, and, with the same force and effect as if the death of said absent person had been definitely proven.

Laws 1937, p. 6, § 6.

§58-961. Power to lease or extend lease - Term - Petition - Persons entitled to be heard.

When they shall deem it necessary, in order to preserve the value of such property, or its rental value, administrators, administrators with will annexed and executors of deceased persons, and guardians of minors or incompetent persons may lease or extend existing leases as to business property, or property to be improved for business purposes, or property used for wind energy conversion, belonging to the estate of said deceased persons, minor or incompetent person, for a term of not more than fifteen (15) years, with the approval of the district court administering said estate of such deceased person, or minor or incompetent person. In order to obtain said approval said administrator, administrator with will annexed, executor or guardian shall file in said district court a petition setting out the general nature of the property desired to be leased, or upon which the lease is desired to be extended, and the facts relative to the necessity of such lease for the preservation of the value of said property, or its rental value. The heirs, devisees and legatees of said deceased person and the next of kin of said minor or incompetent person are designated as persons interested in the estate and are entitled to be heard with respect to such proposed leasing. Provided, if the will of such deceased person shall authorize the executor or administrator with will annexed to sell the property of said decedent such authority shall be considered to include and extend the power to lease said property and further compliance with this act shall not be necessary.

Added by Laws 1953, p. 251, § 1, emerg. eff. June 4, 1953. Amended by Laws 2010, c. 53, § 2, eff. Nov. 1, 2010.

§58-962. Setting for hearing - Notice - Finding - Order.

Upon the filing of such petition the district court in which said estate of said decedent, minor or incompetent person is being administered shall set the matter for hearing not less than four (4) weeks after the date of filing said petition, and notice thereof shall be given to the heirs, devisees and legatees of said decedent, or the next of kin of said minor or incompetent person, whose names and addresses are known, by mail not less than twenty (20) days prior to said hearing, and by publication for not less than three (3) consecutive weeks prior to such hearing as to heirs, devisees and legatees of said deceased person, or the next of kin of said minor or incompetent person whose names and addresses be not known.

If the court shall find upon hearing that it is necessary for the preservation of the value of said property, or its rental value, to lease said property, the court shall direct that the administrator, administrator with will annexed or executor of such deceased person, or the guardian of such minor or incompetent person shall advertise that said property will be leased on the best terms available,

subject to confirmation by court, and that said proposed lease or leases shall be presented to the court at the date therein fixed, not less than four (4) weeks following the date of said order, and notice of said proposed leasing shall be given by publication for not less than three (3) consecutive weeks and by mailing a copy of such notice to the heirs, devisees and legatees of such deceased person, or the next of kin of such minor incompetent person, whose names and addresses are known, not less than twenty (20) days prior to the date fixed.
Added by Laws 1953, p. 251, § 2, emerg. eff. June 4, 1953.

§58-963. Presentation of proposed lease to court - Review by court - Approval - Bond.

On the date fixed in the notice in the last preceding section, if a proposed lease, or leases, shall have been presented to the administrator, administrator with will annexed, executor, or guardian which shall meet with the approval of said administrator, administrator with will annexed, executor or guardian he shall present the same to the district court administering the estate of said decedent or minor or incompetent person, and on said date the district court shall review the said proposed lease or leases which shall have been approved by said administrator, administrator with will annexed, executor or guardian, and any objections interposed thereto, and shall ascertain whether it shall be to the best interest of the estate of said deceased person, minor or incompetent to enter into said proposed lease, or any of said proposed leases, and, if it shall be to the best interest of the estate of said deceased person, minor or incompetent person shall approve that one which shall in the opinion of said district court be most advantageous to the estate of said deceased person, or minor or incompetent person. The court shall direct the administrator, administrator with will annexed, executor or guardian to execute the lease upon there being furnished to him a bond, conditioned for faithful performance of said lease by the lessee, in a sum equal to one-fifth (1/5) of the total rental to be paid under said lease, or the rental for two (2) years, or the value of the improvements agreed to be placed upon said leased property by the lessee, whichever is the greater. In case said lease shall not have a definite sum upon which to base such percentage the district court shall estimate the amount of the prospective rental for the lease period and fix the bond accordingly.
Laws 1953, p. 252, § 3.

§58-1001. Disposition of property upon insufficient evidence of survivorship.

Where the title to property or the devolution thereof depends upon priority of death of two or more persons and there is no sufficient evidence to establish that the persons have died otherwise

than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this act.
Added by Laws 1959, p. 395, § 1.

§58-1002. Beneficiaries.

If property is so disposed of that the right of a beneficiary to succeed to any interest therein is conditional upon his surviving another person, and both persons die, and there is no sufficient evidence to establish that the two have died otherwise than simultaneously, the beneficiary shall be deemed not to have survived. If there is no sufficient evidence to establish that two or more beneficiaries have died otherwise than simultaneously and property has been disposed of in such a way that at the time of their death each of such beneficiaries would have been entitled to the property if he had survived the others, the property shall be divided into as many equal portions as there were such beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each of such beneficiaries had survived.
Laws 1959, p. 395, § 2.

§58-1003. Joint tenants or tenants by the entirety.

Where there is no sufficient evidence to establish that the two joint tenants or tenants by the entirety have died otherwise than simultaneously, the property so held shall be distributed one-half (1/2) as if one had survived and one-half (1/2) as if the other had survived. If there are more than two joint tenants and all of them have so died the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants. The term "joint tenants" includes owners of property held under circumstances which entitled one or more to the whole of the property on the death of the other or others.
Laws 1959, p. 395, § 3.

§58-1004. Husband and wife.

Where a husband and wife have died, leaving community property, and there is no sufficient evidence to establish that they have died otherwise than simultaneously, one-half (1/2) of all the community property shall pass as if the husband had survived and as if said one-half (1/2) were his separate property, and the other one-half (1/2) thereof shall pass as if the wife had survived and as if said other one-half (1/2) were her separate property.
Laws 1959, p. 395, § 4.

§58-1005. Life or accident policies - Annuity contracts - Distribution of proceeds.

Where the insured or the annuitant and the beneficiary in a policy of life or accident insurance or in an annuity contract have

died and there is no sufficient evidence to establish that they have died other than simultaneously, the proceeds of the policy or contract shall be distributed as if the insured or annuitant had survived the beneficiary, except if the policy or contract is community property of the insured or annuitant and his spouse, and there is no alternative beneficiary, or no alternative beneficiary except the estate or personal representatives of the insured, the proceeds shall be distributed as community property under Section 4.
Laws 1959, p. 395, § 5.

§58-1006. Inapplication in certain cases.

This act shall not apply in the case of wills, living trusts, deeds, or contracts of insurance or annuity, or any other instrument wherein provision is made for distribution of property different from the provisions of this act, or where provision is made for a presumption as to survivorship which results in a distribution of property different from that here provided, in all of which cases the provisions of such instrument shall be given effect.
Laws 1959, p. 396, § 6.

§58-1007. Construction and interpretation.

This act shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact it.
Laws 1959, p. 396, § 7.

§58-1008. Citation.

This act may be cited as the Uniform Simultaneous Death Act.
Laws 1959, p. 396, § 8.

§58-1051. Repealed by Laws 1992, c. 274, § 7, eff. Sept. 1, 1992.

§58-1052. Repealed by Laws 1992, c. 274, § 7, eff. Sept. 1, 1992.

§58-1053. Repealed by Laws 1992, c. 274, § 7, eff. Sept. 1, 1992.

§58-1055. Repealed by Laws 1992, c. 274, § 7, eff. Sept. 1, 1992.

§58-1056. Repealed by Laws 1992, c. 274, § 7, eff. Sept. 1, 1992.

§58-1058. Repealed by Laws 1992, c. 274, § 7, eff. Sept. 1, 1992.

§58-1059. Repealed by Laws 1992, c. 274, § 7, eff. Sept. 1, 1992.

§58-1060. Repealed by Laws 1992, c. 274, § 7, eff. Sept. 1, 1992.

§58-1061. Repealed by Laws 1992, c. 274, § 7, eff. Sept. 1, 1992.

§58-1062. Repealed by Laws 1992, c. 274, § 7, eff. Sept. 1, 1992.

§58-1063. Supervised power of attorney.

A. Any person over eighteen (18) years of age may execute a supervised power ofattorney pursuant to the provisions of this section.

B. A supervised power of attorney is a power of attorney by which a person nominates another to be the attorney-in-fact of such person and charges such attorney-in-fact with the care, custody and management of the estate of such person and which is approved by the court as such.

C. Any such nomination shall be by a written instrument approved by the district court of the county of residence of the person executing the power upon a petition filed by such person.

Before approving any such nomination, the court shall cause notice of such petition to be:

1. published for at least one (1) time in a newspaper, authorized to publish legal notices, of general circulation in the county in which the petition has been filed; and

2. mailed by certified mail to each heir-at-law of the person creating the power at such heir's address as last known to the petitioner.

Such notice shall be published or mailed as required, at least ten (10) days prior to the date set by the court for hearing on the petition. After hearing and examination upon such petition, the district court shall approve of such supervised power of attorney if it appears to the court that such approval would be in the best interest of the petitioner.

D. The holder of a supervised power of attorney shall give bond to the State of Oklahoma in like manner and with like conditions as provided for guardians of incapacitated and partially incapacitated persons unless the court determines that a bond is not necessary.

E. Upon the appointment of a holder of a supervised power of attorney and approval thereof by the court, the person shall not thereafter have the power to enter into any contract creating an obligation against his estate except for necessities. All acts done by the holder of a supervised power of attorney shall have the same effect and inure to the benefit of and bind such person and his heirs-at-law. A supervised power of attorney shall not be affected by the subsequent disability or incapacity of the person executing it.

F. The holder of a supervised power of attorney shall be required to make at least an annual accounting to the court and to the person of any receipts and disbursements received or expenditures made by the holder of the supervised power of attorney on behalf of such person during the previous year. The court shall set the

accounting for hearing and cause notice to be mailed to the person and to each of his heirs-at-law at such heir's address as last known to the holder of the power of attorney at least ten (10) days prior to the hearing. At the hearing the court shall examine such account and approve the same if all receipts appear to be accounted for and if all expenditures appear to be proper and in the best interests of the ward.

G. The holder of a supervised power of attorney may receive as compensation for his services the compensation provided by law for guardians pursuant to the provisions of Section 4-401 of Title 30 of the Oklahoma Statutes if allowed by the court.

H. Except as otherwise provided in this section, the holder of a supervised power of attorney shall comply with all laws applying to the estate of a person under guardianship insofar as they pertain to the sale, mortgage or leasing of the property of a person granting such power.

I. A supervised power of attorney may be discharged by the court upon the application of the person, any of his heirs-at-law, or the holder of the supervised power of attorney or otherwise upon such notice to the person, his heirs-at-law, or the holder of the supervised power of attorney not joining in the petition as the court may determine reasonable and proper, when it appears that the supervised power of attorney is no longer necessary. Upon the termination of a supervised power of attorney, a holder of a supervised power of attorney shall account to the court and shall turn over all assets in his possession belonging to the person either to such person or to his personal representative as the court shall direct.

J. A holder of a supervised power of attorney shall keep safe the estate of the person and shall perform diligently and in good faith, as a prudent person would manage his own property, not with regard to speculation but with regard to conservation and growth, the specific duties and powers granted by the supervised power of attorney.

K. As used in this section the term "heirs-at-law" shall mean those persons then living who would inherit from the person executing the supervised power of attorney under Section 213 of Title 84 of the Oklahoma Statutes should such person die at the time in question.
Added by Laws 1989, c. 270, § 4, eff. Nov. 1, 1989.

§58-1071. Short title.

Sections 1071 through 1077 of this title shall be known and may be cited as the "Uniform Durable Power of Attorney Act".
Added by Laws 1988, c. 293, § 1, eff. Nov. 1, 1988. Amended by Laws 1992, c. 274, § 4, eff. Sept. 1, 1992; Laws 1993, c. 345, § 12, eff. Sept. 1, 1993.

§58-1072. Definition.

A durable power of attorney is a power of attorney by which a principal designates another his attorney-in-fact in writing and the writing contains the words "This power of attorney shall not be affected by subsequent disability, incapacity, or extended absence of the principal, or lapse of time", or "This power of attorney shall become effective upon the disability, incapacity, or extended absence of the principal", or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability, incapacity, or extended absence, and, unless it states a time of termination, notwithstanding the lapse of time since the execution of the instrument.

Added by Laws 1988, c. 293, § 2, eff. Nov. 1, 1988. Amended by Laws 2010, c. 315, § 1, eff. Nov. 1, 2010.

§58-1072.1. Attributes of durable power of attorney - Authority granted.

A. The durable power of attorney may show or state:

1. The fact of execution under the provisions of the Uniform Durable Power of Attorney Act;

2. The time and conditions under which the power is to become effective;

3. The extent and scope of the powers conferred; and

4. Who is to exercise the power, including any successor attorney-in-fact if a prior appointed attorney-in-fact dies, ceases to act, refuses or is unable to serve, or resigns.

B. The power may grant complete or limited authority with respect to the principal's:

1. Person, including, but not limited to, health and medical care decisions and a do-not-resuscitate consent on the principal's behalf, but excluding:

   a. the execution, on behalf of the principal, of a Directive to Physicians, an Advance Directive for Health Care, Living Will, or other document, except an Oklahoma standardized format physician orders for life-sustaining treatment form in accordance with the provisions of this act, purporting to authorize life-sustaining treatment decisions, and

   b. the making of life-sustaining treatment decisions unless the power complies with the requirements for a health care proxy under the Oklahoma Advance Directive Act or the Oklahoma Do-Not-Resuscitate Act; and

2. Property, including homestead property, whether real, personal, intangible or mixed.

Added by Laws 1992, c. 274, § 5, eff. Sept. 1, 1992. Amended by Laws 1993, c. 345, § 13, eff. Sept. 1, 1993; Laws 1997, c. 327, § 16, eff. Nov. 1, 1997; Laws 2016, c. 355, § 6.

§58-1072.2. Execution - Witnesses - Presumptions - Validity of prior powers.

A. A durable power of attorney may be executed in accordance with the following provisions; provided, however, failure to execute a power of attorney as prescribed in this section shall not be construed to diminish the effect or validity of an otherwise properly executed durable power of attorney:

1. The principal shall sign the power of attorney at its end, or, if the principal is unable, some other person shall subscribe his name thereto in his presence and by his direction. The principal, or such other person, shall sign in the presence of two witnesses, each of whom shall sign his name in the presence of the principal and each other;

2. The witnesses shall not be:

a. under eighteen (18) years of age,

b. related to the principal by blood or marriage, or

c. the attorney-in-fact or anyone related to the attorney-in-fact by blood or marriage; and

3. The execution of the power of attorney shall be in substantially the following form:

Signed:_____
(Principal's signature)
City, County, and State of Residence
_____
_____
The principal is personally known to me and I believe the principal to be of sound mind. I am eighteen (18) years of age or older. I am not related to the principal by blood or marriage, or related to the attorney-in-fact by blood or marriage. The principal has declared to me that this instrument is his power of attorney granting to the named attorney-in-fact the power and authority specified herein, and that he has willingly made and executed it as his free and voluntary act for the purposes herein expressed.
Witness:_____
Witness:_____
STATE OF OKLAHOMA)
) SS.
COUNTY OF_____)
Before me, the undersigned authority, on this ____ day of _____, 19____, personally appeared _____ (principal), _____ (witness), and _____ (witness), whose names are

subscribed to the foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the principal declared to me and to the said witnesses in my presence that the instrument is his or her power of attorney, and that the principal has willingly and voluntarily made and executed it as the free act and deed of the principal for the purposes therein expressed, and the witnesses declared to me that they were each eighteen (18) years of age or over, and that neither of them is related to the principal by blood or marriage, or related to the attorney-in-fact by blood or marriage.

_____
Notary Public
My Commission Expires:

_____

B. Execution of a durable power of attorney in substantially the form prescribed by this section shall create a presumption that the principal understands the nature and purpose of the power of attorney and has executed the same while being of sound mind, and of his free will. A person dealing with the attorney-in-fact shall not be required to inquire into the validity or adequacy of the execution of the power of attorney, nor shall any such person be required to inquire into the validity or propriety of any act of an attorney-in-fact apparently authorized by a power of attorney executed pursuant to this section.

C. Notwithstanding the provisions of Section 26 of Title 16 of the Oklahoma Statutes, county clerks shall record any durable power of attorney executed in substantially the form prescribed in subsection A of this section.

D. All powers of attorney executed prior to September 1, 1992, pursuant to the provisions of Sections 1051 through 1062 of Title 58 of the Oklahoma Statutes or the Uniform Durable Power of Attorney Act shall be valid. All durable powers of attorney established on or after September 1, 1992, shall be executed pursuant to the provisions of the Uniform Durable Power of Attorney Act.

E. A power of attorney executed in another state shall be considered valid for purposes of the Uniform Durable Power of Attorney Act if the power of attorney and the execution of the power of attorney substantially comply with the requirements of the Uniform Durable Power of Attorney Act.

F. Nothing in this section shall be construed to affect powers of attorney established pursuant to common law.

Added by Laws 1992, c. 274, § 6, eff. Sept. 1, 1992.

§58-1072.3. Definition.

A. "Extended absence" as used in the Uniform Durable Power of Attorney Act means that a principal has been missing or loses all

contact with the designated attorney-in-fact, family members, and friends for a period of more than forty-five (45) days. "Contact" includes but is not limited to face-to-face contact, a communication that can reasonably be verified as having been produced or made by the principal such as a letter, phone call, text message, electronic mail or other electronic communication. If the principal is a member of the Armed Forces of the United States, an extended absence as defined in this section, shall not exist when the principal is deployed for military service or training or is classified as missing in action or a prisoner of war. A durable power of attorney activated because of an extended absence shall be considered in effect until the principal makes contact with the attorney-in-fact, family members, or friends or until the principal is found.

B. Once a principal's extended absence exceeds the period of time prescribed by Section 941 of Title 58 of the Oklahoma Statutes, the attorney-in-fact shall start proceedings under Section 941 of Title 58 of the Oklahoma Statutes to have the principal declared legally dead.

Added by Laws 2010, c. 315, § 4, eff. Nov. 1, 2010.

§58-1073. Disability, incapacity, or extended absence of principal not affecting acts done pursuant to durable power of attorney.

All acts done by an attorney-in-fact pursuant to a durable power of attorney during any period of disability, incapacity, or extended absence of the principal have the same effect and inure to the benefit of and bind the principal and his successors in interest as if the principal were competent and not disabled, incapacitated, or on an extended absence.

Added by Laws 1988, c. 293, § 3, eff. Nov. 1, 1988. Amended by Laws 2010, c. 315, § 2, eff. Nov. 1, 2010.

§58-1074. Fiduciary's power to revoke or amend durable power of attorney--Principal's nomination of fiduciary

A. If, following execution of a durable power of attorney, a court of the principal's domicile appoints a conservator, guardian of the estate, or other fiduciary charged with the management of all of the principal's property or all of the principal's property except specified exclusions, the attorney-in-fact is accountable to the fiduciary as well as to the principal. The fiduciary has the same power to revoke or amend the power of attorney that the principal would have had if the principal were not disabled or incapacitated.

B. A principal may nominate, by a durable power of attorney, the conservator, guardian of his or her estate, or guardian of his or her person for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most

recent nomination in a durable power of attorney except for good cause or disqualification.
Added by Laws 1988, c. 293, § 4, eff. Nov. 1, 1988. Amended by Laws 2010, c. 349, § 1, eff. Nov. 1, 2010; Laws 2015, c. 7, § 1, eff. Nov. 1, 2015.
NOTE: Laws 2010, c. 315, § 3 repealed by Laws 2012, c. 13, § 1, emerg. eff. April 5, 2012.

§58-1075. Death, disability, or incapacity of principal - Effect on power of attorney - Notice of revocation.

A. Death of the principal revokes and terminates the power of attorney, provided however, the death of a principal who has executed a written power of attorney, durable or otherwise, does not revoke or terminate the agency as to the attorney-in-fact or other person, who, without actual knowledge of the death of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds successors in interest of the principal.

B. The disability or incapacity of a principal who has previously executed a written power of attorney that is not a durable power does not revoke or terminate the agency as to the attorney-in-fact or other person, who, without actual knowledge of the disability or incapacity of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and his successors in interest.

C. If a durable power of attorney is recorded with the clerk in any county of this state, in the event of revocation of such durable power of attorney, notice of the revocation shall be filed in each county or counties where the durable power of attorney was recorded. Until such notice is recorded, any person or entity may rely on the recorded authority of the attorney-in-fact with respect to matters covered by the records of the county clerk, and the acts of the attorney-in-fact shall be binding on the principal or the principal's successors in interest.
Added by Laws 1988, c. 293, § 5, eff. Nov. 1, 1988. Amended by Laws 2015, c. 7, § 2, eff. Nov. 1, 2015.

§58-1076. Affidavit of lack of knowledge of termination or revocation of power of attorney.

As to acts undertaken in good faith reliance thereon, an affidavit executed by the attorney-in-fact under a power of attorney, durable or otherwise, stating that he did not have at the time of exercise of the power actual knowledge of the termination of the power by revocation or of the principal's death, disability, or incapacity, is conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power of attorney requires execution and delivery of any instrument that is recordable, the affidavit when authenticated for record is

likewise recordable. This section does not affect any provision in a power of attorney for its termination by expiration of time or occurrence of an event other than express revocation or a change in the principal's capacity.
Added by Laws 1988, c. 293, § 6, eff. Nov. 1, 1988.

§58-1077. Construction and application of act.
The Uniform Durable Power of Attorney Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.
Added by Laws 1988, c. 293, § 7, eff. Nov. 1, 1988.

§58-1081. Standards of conduct and liability.
Any attorney-in-fact, whether acting pursuant to a durable or nondurable power of attorney or otherwise, is bound by standards of conduct and liability applicable to other fiduciaries.
Added by Laws 1988, c. 293, § 9, eff. Nov. 1, 1988.

§58-1101. Application of act.
When an Oklahoma resident dies leaving a surviving spouse, and leaves a will which gives all of the estate to such surviving spouse and names such surviving spouse as executor, the procedures set out in this act may be used and shall control over other provisions of law to the contrary, and unless contrary hereto, all applicable existing law shall remain in force and effect.
Laws 1979, c. 258, § 14, eff. Oct. 1, 1979.

§58-1102. Petition - Filing - Contents.
If electing to use this act, the surviving spouse shall file, in the court having probate jurisdiction of the will, a written, verified petition with the will or a copy attached which shall allege:
1. That decedent died an Oklahoma resident leaving a will which gives all of the decedent's estate to the surviving spouse and names the surviving spouse as executor;
2. The date and place of death of decedent;
3. That petitioner is the surviving spouse of decedent and consents to serve as executor;
4. The names, relationship, ages and addresses of the petitioner and the heirs and contingent legatees and devisees of the decedent; and
5. The nature and estimated value of the estate, to the best of petitioner's knowledge.
Laws 1979, c. 258, § 15, eff. Oct. 1, 1979.

§58-1103. Hearing - Notice.

Upon filing of the petition, the court shall fix a time, place and date for hearing the petition which date shall be not less than ten (10) nor more than thirty (30) days from the filing of the petition. Notice shall be given as provided by law for hearing of a petition for probate or other wills. Proof of such notice shall be made and filed as in other estate proceedings.
Laws 1979, c. 258, § 16, eff. Oct. 1, 1979.

§58-1104. Admission of will to probate - Appointment of surviving spouse as personal representative - Duties of representative.

A. At the time and place of such hearing or at the postponement thereof, after first receiving satisfactory proof of the giving of the notice of the hearing, and if there is no contest to the probate of the will or the appointment of the personal representative, the court shall receive proof of the will and, if satisfied thereby, may admit the will to probate and order the appointment and qualification of the surviving spouse as personal representative. Unless the will provides otherwise, the court, in its discretion, may waive or require the giving of bond by the spouse regardless of the known or estimated value of the estate. The court, at a later time, for good cause shown, may waive or require a bond of the personal representative.

B. After being appointed personal representative, the surviving spouse shall:

1. Give notice to creditors in the manner provided in Section 331 of this title with respect to a decedent who has been dead for a period of more than five (5) years prior to the commencement of a probate proceeding for such decedent's estate, and file the appropriate affidavits as provided in Section 332 of this title;

2. Make and return to the court, as in other estate proceedings, a true inventory and appraisement of all the estate of the decedent, except that the surviving spouse alone may appraise the values thereof and shall appraise the items set out in the estate inventory at their fair market values and no appraisers need be appointed by the court. Both the estate inventory and the appraisement thereof shall be verified by the surviving spouse;

3. Prepare all returns and reports required by law with regard to estate, income and other taxes owed by the decedent or the estate and obtain receipts, releases and waivers as are required in regard thereto, or in regard to estate taxes, obtain an order releasing estate tax liability from the district court. For deaths occurring on or after January 1, 2010, no release of estate tax liability is necessary pursuant to Section 5 of this act; and

4. Carry out all other duties of a personal representative as in other estate proceedings.

Added by Laws 1979, c. 258, § 17, eff. Oct. 1, 1979. Amended by Laws 1980, c. 286, § 3, eff. Oct. 1, 1980; Laws 1988, c. 228, § 19, emerg. eff. June 22, 1988; Laws 2010, c. 436, § 4, eff. July 1, 2010.

§58-1105. Final account - Filing - Requisites - Petition.

After completing all applicable provisions of this act, the surviving spouse shall prepare and file a final account which need only include a description of income and expenditures, as in other estate proceedings and shall petition the court:

1. To approve the Final account;

2. To determine the names and identities of the heirs and that the surviving spouse is the sole legatee and devisee of the decedent;

3. To order distribution to the surviving spouse of all remaining assets of the estate; and

4. To discharge the surviving spouse and any sureties on the bond from further duties and liabilities.

Laws 1979, c. 258, § 19, eff. Oct. 1, 1979.

§58-1106. Final account and petition - Date, time and place - Notice - Hearing.

The court shall thereupon fix a date, time and place for the final account and petition, which date shall be not less than ten (10) nor more than thirty (30) days after the filing of the final account and petition. There shall be notice given by mailing to the heirs and contingent legatees and devisees of the decedent, whose names and addresses are known, not less than ten (10) days prior to the date of the hearing and by publication one time in a newspaper in the county not less than ten (10) days prior to the hearing. Proof of such notice shall be made and filed as in other estate proceedings.

The hearing shall be held and findings and orders made, filed and recorded in the same manner as in other estate proceedings.

Laws 1979, c. 258, § 19, eff. Oct. 1, 1979.

§58-1201. Short title.

Sections 1201 through 1225 of this title shall be known and may be cited as the "Oklahoma Uniform Transfers to Minors Act".

Added by Laws 1986, c. 261, § 1, eff. Nov. 1, 1986. Amended by Laws 1993, c. 158, § 1, eff. Sept. 1, 1993.

§58-1202. Definitions.

As used in the Oklahoma Uniform Transfers to Minors Act:

1. "Adult" means an individual who has attained the age of twenty-one (21) years.

2. "Benefit plan" means an employer's plan for the benefit of an employee or partner.

3. "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the account of others.

4. "Guardian" means a person appointed or qualified by a court to act as guardian of the estate or of the person and the estate.

5. "Court" means the district court of this state in the county where the minor resides, or, if the minor is not a resident of this state, the district court of this state in the county where the custodian resides or has his principal place of business.

6. "Custodial property" means:

a. any interest in property transferred to a custodian pursuant to the provisions of the Oklahoma Uniform Transfers to Minors Act, and

b. the income from and proceeds of that interest in property.

7. "Custodian" means a person so designated pursuant to Section 1210 of this title or a successor or substitute custodian designated pursuant to Section 1219 of this title.

8. "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised according to state or federal law.

9. "Legal representative" means an individual's personal representative, conservator, or guardian.

10. "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

11. "Minor" means an individual who has not attained the age of twenty-one (21) years.

12. "Person" means an individual, corporation, organization, or other legal entity.

13. "Personal representative" means an executor, administrator, successor personal representative, or special administrator of a decedent's estate, or a person legally authorized to perform substantially the same functions.

14. "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

15. "Transfer" means a transaction that creates custodial property pursuant to Section 1210 of this title.

16. "Transferor" means a person who makes a transfer pursuant to the provisions of the Oklahoma Uniform Transfers to Minors Act.

17. "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers. Added by Laws 1986, c. 261, § 2, eff. Nov. 1, 1986. Amended by Laws 1993, c. 158, § 2, eff. Sept. 1, 1993.

§58-1203. Applicability of law - Custodianship.

A. The Oklahoma Uniform Transfers to Minors Act applies to a transfer that refers to the Oklahoma Uniform Transfers to Minors Act in the designation provided for in subsection A of Section 10 of this act by which the transfer is made if at the time of the transfer, the transferor, minor, or custodian is a resident of this state or the custodial property is located in this state. The custodianship so created remains subject to the provisions of the Oklahoma Uniform Transfers to Minors Act despite a subsequent change in residence of the transferor, minor, or custodian, or the removal of custodial property from this state.

B. A person designated as a custodian pursuant to the provisions of the Oklahoma Uniform Transfers to Minors Act is subject to personal jurisdiction in this state with respect to any matter relating to the custodianship.

C. A transfer that purports to be made and which is valid under the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act, or a substantially similar act, of another state is governed by the law of the designated state and may be executed and is enforceable in this state if at the time of the transfer, the transferor, minor, or custodian is a resident of the designated state or the custodial property is located in the designated state.

Added by Laws 1986, c. 261, § 3, eff. Nov. 1, 1986.

§58-1204. Nomination of custodian.

A. A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act." The nomination may name one or more persons as substitute custodians to whom the property must be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve. The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment, or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

B. A custodian nominated pursuant to the provisions of this section must be a person to whom a transfer of property of that kind may be made according to the provisions of subsection A of Section 10 of this act.

C. The nomination of a custodian pursuant to the provisions of this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated

custodian is completed pursuant to the provisions of Section 10 of this act. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to the provisions of Section 10 of this act.
Added by Laws 1986, c. 261, § 4, eff. Nov. 1, 1986.

§58-1205. Irrevocable transfers to custodian.

A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to the provisions of Section 10 of this act.
Added by Laws 1986, c. 261, § 5, eff. Nov. 1, 1986.

§58-1206. Personal representatives or trustees - Irrevocable transfers to custodian.

A. A personal representative or trustee may make an irrevocable transfer pursuant to the provisions of Section 10 of this act to a custodian for the benefit of a minor as authorized in the governing will or trust.

B. If the testator or settlor has nominated a custodian according to Section 4 of this act to receive the custodial property, the transfer must be made to that person.

C. If the testator or settlor has not nominated a custodian according to Section 4 of this act, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, the personal representative or the trustee, as the case may be, shall designate the custodian from among those eligible to serve as custodian for property of that kind according to the provisions of subsection A of Section 10 of this act.
Added by Laws 1986, c. 261, § 6, eff. Nov. 1, 1986.

§58-1207. Personal representatives, trustees or guardians - Irrevocable transfers to adult or trust company as custodian.

A. Subject to the provisions of subsection C of this section, a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to the provisions of Section 10 of this act, in the absence of a will or under a will or trust that does not contain an authorization to do so.

B. Subject to the provisions of subsection C of this section, a guardian may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to the provisions of Section 10 of this act.

C. A transfer according to the provisions of subsection A or B of this section may be made only if:

1. the personal representative, trustee, or guardian considers the transfer to be in the best interest of the minor,

2. the transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument, and

3. the transfer is authorized by the court if it exceeds Ten Thousand Dollars ($10,000.00) in value.

Added by Laws 1986, c. 261, § 7, eff. Nov. 1, 1986.

§58-1208. Persons holding property of or owing debt to minor - Irrevocable transfers to custodian.

A. Subject to the provisions of subsections B and C of this section, a person not subject to the provisions of Sections 6 or 7 of this act who holds property of or owes a liquidated debt to a minor not having a guardian may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to the provisions of Section 10 of this act.

B. If a person having the right to do so pursuant to the provisions of Section 4 of this act has nominated a custodian according to the provisions of Section 4 of this act to receive the custodial property, the transfer must be made to that person.

C. If no custodian has been nominated pursuant to the provisions of Section 4 of this act, or all persons nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer pursuant to the provisions of this section may be made to an adult member of the minor's family or to a trust company, unless the property exceeds Ten Thousand Dollars ($10,000.00) in value.

Added by Laws 1986, c. 261, § 8, eff. Nov. 1, 1986.

§58-1209. Acknowledgment of delivery.

A written acknowledgment of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian pursuant to the provisions of the Oklahoma Uniform Transfers to Minors Act.

Added by Laws 1986, c. 261, § 9, eff. Nov. 1, 1986.

§58-1210. Creation of custodial property - Transfers.

A. Custodial property is created and a transfer is made whenever:

1. An uncertificated security or a certificated security in registered form is either:

a. registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

b. delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in subsection B of this section; or

2. Money is paid or delivered or a security held in the name of a broker, financial institution, or its nominee is transferred to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act". Money paid or delivered to a financial institution as prescribed in this paragraph also may be deposited using the terms "Payable on Death" or "P.O.D.", in which case, such deposits shall be payable on the designated minor's death to a trust designated in the deposit account agreement as the "P.O.D." beneficiary, or to an individual named beneficiary if living and if not living, to the named beneficiary's estate, notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes. A security held or transferred as prescribed in this paragraph also may be subject to a beneficiary designation pursuant to the Oklahoma Uniform TOD Security Registration Act, in which case, the security shall be transferable on the designated minor's death to a named beneficiary, if living and if not living, to the named beneficiary's estate, notwithstanding any provision to the contrary contained in Sections 41 through 57 of Title 84 of the Oklahoma Statutes; or

3. The ownership of a life or endowment insurance policy or annuity contract is either:

a. registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

b. assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

4. An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian

for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

5. An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

6. A certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

a. issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

b. delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act"; or

7. An interest in any property not described in paragraphs 1, 2, 3, 4, 5 and 6 is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection B of this section.

B. An instrument in the following form satisfies the requirements of subparagraph b of paragraph 1 and paragraph 7 of subsection A of this section:

"TRANSFER UNDER THE OKLAHOMA UNIFORM TRANSFERS TO MINORS ACT

I, _____ (name of transferor or name and representative capacity if a fiduciary) hereby transfer to _____ (name of custodian), as custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated: _____

_____

(Signature)

_____ (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Oklahoma Uniform Transfers to Minors Act.

Dated: _____

_____"

(Signature of Custodian)

C. A transferor shall place the custodian in control of the custodial property as soon as practicable.

Added by Laws 1986, c. 261, § 10, eff. Nov. 1, 1986. Amended by Laws 1993, c. 158, § 3, eff. Sept. 1, 1993; Laws 1994, c. 313, § 7, eff. Sept. 1, 1994.

§58-1211. Limitations on transfers.

A transfer may be made only for one minor, and only one person may be the custodian. All custodial property held according to the provisions of the Oklahoma Uniform Transfers to Minors Act by the same custodian for the benefit of the same minor constitutes a single custodianship.

Added by Laws 1986, c. 261, § 11, eff. Nov. 1, 1986.

§58-1212. Validity and effect of transfers.

A. The validity of a transfer made in a manner prescribed in the Oklahoma Uniform Transfers to Minors Act is not affected by:

1. failure of the transferor to comply with subsection C of Section 10 of this act concerning possession and control; or
2. designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian pursuant to the provisions of subsection A of Section 10 of this act; or
3. death or incapacity of a person nominated pursuant to the provisions of Section 4 of this act or designated according to the provisions of Section 10 of this act as custodian or the disclaimer of the office by that person.

B. A transfer made pursuant to the provisions of Section 10 of this act is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties, and authority provided for in the Oklahoma Uniform Transfers to Minors Act, and neither the minor nor the minor's legal representative has any right, power, duty, or authority with respect to the custodial property except as provided for in the Oklahoma Uniform Transfers to Minors Act.

C. By making a transfer, the transferor incorporates in the disposition all the provisions of the Oklahoma Uniform Transfers to Minors Act and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided for in the Oklahoma Uniform Transfers to Minors Act.

Added by Laws 1986, c. 261, § 12, eff. Nov. 1, 1986.

§58-1213. Powers and duties of custodians.

A. A custodian shall:

1. take control of custodial property;
2. register or record title to custodial property if appropriate; and

3. collect, hold, manage, invest, and reinvest custodial property.

B. In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other statute restricting investments by fiduciaries. If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise. However, a custodian, in the custodian's discretion and without liability to the minor or the minor's estate, may retain any custodial property received from a transferor.

C. A custodian may invest in or pay premiums on life insurance or endowment policies on:

1. the life of the minor only if the minor or the minor's estate is the sole beneficiary, or

2. the life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate, or the custodian in the capacity of custodian, is the irrevocable beneficiary.

D. A custodian at all times shall keep custodial property separate and distinct from all other property in a manner sufficient to identify it clearly as custodial property of the minor. Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded, and custodial property subject to registration is so identified if it is either registered, or held in an account designated, in the name of the custodian, following in substance by the words: "as a custodian for _____ (name of minor) under the Oklahoma Uniform Transfers to Minors Act."

E. A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns, and shall make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor if the minor has attained the age of fourteen (14) years.

Added by Laws 1986, c. 261, § 13, eff. Nov. 1, 1986.

§58-1214. Rights, powers and authority of custodians over property.

A. A custodian, acting in a custodial capacity, has all the rights, powers, and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise those rights, powers and authority in that capacity only.

B. The provisions of this section do not relieve a custodian from liability for breach of the provisions of Section 13 of this act.

Added by Laws 1986, c. 261, § 14, eff. Nov. 1, 1986.

§58-1215. Delivery or payment to minor - Expenditures for minor's benefit.

A. A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to:

1. the duty or ability of the custodian personally or of any other person to support the minor, or

2. any other income or property of the minor which may be applicable or available for that purpose.

B. On petition of an interested person or the minor if the minor has attained the age of fourteen (14) years, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the court considers advisable for the use and benefit of the minor.

C. A delivery, payment, or expenditure pursuant to the provisions of this section is in addition to, not in substitution for, and does not affect any obligation of a person to support the minor.

Added by Laws 1986, c. 261, § 15, eff. Nov. 1, 1986.

§58-1216. Expenses and compensation of custodian - Bond.

A. A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

B. Except for one who is a transferor pursuant to the provisions of Section 5 of this act, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

C. Except as provided for in subsection F of Section 19 of this act, a custodian need not give a bond.

Added by Laws 1986, c. 261, § 16, eff. Nov. 1, 1986.

§58-1217. Persons dealing with purported custodian - Responsibilities.

A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining:

1. the validity of the purported custodian's designation; or

2. the propriety of, or the authority pursuant to the provisions of the Oklahoma Uniform Transfers to Minors Act for, any act of the purported custodian; or

3. the validity or propriety pursuant to the provisions of the Oklahoma Uniform Transfers to Minors Act of any instrument or

instructions executed or given either by the person purporting to make a transfer or by the purported custodian; or

4. the propriety of the application of any property of the minor delivered to the purported custodian.

Added by Laws 1986, c. 261, § 17, eff. Nov. 1, 1986.

§58-1218. Claims against custodial property - Liability of custodian or minor.

A. A claim based on:

1. a contract entered into by a custodian acting in a custodial capacity, or

2. an obligation arising from the ownership or control of custodial property, or

3. a tort committed during the custodianship,

may be asserted against the custodial property by proceeding against the custodian in the custodial capacity, whether or not the custodian or the minor is personally liable therefor.

B. A custodian is not personally liable:

1. on a contract properly entered into in the custodial capacity unless the custodian fails to reveal that capacity and to identify the custodianship in the contract; or

2. for an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault.

C. A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the minor is personally at fault.

Added by Laws 1986, c. 261, § 18, eff. Nov. 1, 1986.

§58-1219. Successor or substitute custodian.

A. A person nominated in accordance with the provisions of Section 4 of this act or designated pursuant to the provisions of Section 10 of this act as custodian may decline to serve by delivering a valid disclaimer pursuant to the provisions of Sections 751 through 759 of Title 60 of the Oklahoma Statutes to the person who made the nomination or to the transferor or the transferor's legal representative. If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated in accordance with the provisions of Section 4 of this act, the person who made the nomination may nominate a substitute custodian in accordance with the provisions of Section 4 of this act; otherwise, the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property in accordance with the provisions of subsection A of Section 10 of this act. The custodian so designated has the rights of a successor custodian.

B. A custodian at any time may designate a trust company or an adult other than a transferor according to the provisions of Section 5 of this act as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed.

C. A custodian may resign at any time by delivering written notice to the minor if the minor has attained the age of fourteen (14) years and to the successor custodian and by delivering the custodial property to the successor custodian.

D. If a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor custodian and the minor has attained the age of fourteen (14) years, the minor may designate as successor custodian, in the manner prescribed in subsection B of this section, an adult member of the minor's family, a guardian of the minor, or a trust company. If the minor has not attained the age of fourteen (14) years or fails to act within sixty (60) days after the ineligibility, death, or incapacity, the guardian of the minor becomes successor custodian. If the minor has no guardian or the guardian declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person may petition the court to designate a successor custodian.

E. A custodian who declines to serve in accordance with the provisions of subsection A of this section or resigns pursuant to the provisions of subsection C of this section, or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian, by action, may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

F. A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person of the minor, the conservator of the minor, or the minor if the minor has attained the age of fourteen (14) years may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor pursuant to the provisions of Section 5 of this act or to require the custodian to give appropriate bond. Added by Laws 1986, c. 261, § 19, eff. Nov. 1, 1986.

§58-1220. Accounting by custodian.

A. A minor who has attained the age of fourteen (14) years, the minor's guardian of the person or legal representative, an adult

member of the minor's family, a transferor, or a transferor's legal representative may petition the court:

1. for an accounting by the custodian or the custodian's legal representative; or

2. for a determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property unless the responsibility has been adjudicated in an action pursuant to the provisions of Section 18 of this act to which the minor or the minor's legal representative was a party.

B. A successor custodian may petition the court for an accounting by the predecessor custodian.

C. The court, in a proceeding pursuant to the provisions of the Oklahoma Uniform Transfers to Minors Act or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

D. If a custodian is removed according to the provisions of subsection F of Section 19 of this act, the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.

Added by Laws 1986, c. 261, § 20, eff. Nov. 1, 1986.

§58-1221. Minor's death or attainment of majority.

A. The custodian shall transfer in an appropriate manner the custodial property to the minor, the minor's estate, or the minor's beneficiary as prescribed in paragraph 2 of subsection A of Section 1210 of this title upon the earlier of:

1. The minor's attainment of eighteen (18) years of age with respect to custodial property transferred pursuant to the provisions of Section 1205 or 1206 of this title, unless the transfer is delayed pursuant to subsection B of this section; or

2. The minor's attainment of majority pursuant to the laws of this state with respect to custodial property transferred pursuant to the provisions of Section 1207 or 1208 of this title; or

3. The minor's death.

B. A transfer required by paragraph 1 of subsection A of this section may be delayed until a specified time after the minor attains eighteen (18) years of age but not later than when the minor attains twenty-one (21) years of age. The time for a transfer pursuant to this subsection must be specified at the time of the transfer whether made under Section 1210 of this title or by will or trust and shall be in substantially the following words: "The custodian shall transfer this property to _____ (name of minor) [on (specified date)] [when (he or she) reaches the age of _____ (age, after eighteen (18) years and at or before twenty-one (21) years)]."

C. To the extent the custodial property consists of deposit accounts held at a financial institution, if the minor reaches the

age for release and the custodian does not make a timely transfer of the property to the minor, the minor may make a request for the account-holding financial institution to intervene. The request from the minor shall be signed, dated and in writing, and shall state that the minor has reached the age for release and the custodian has refused to distribute the remaining funds to the minor after being asked to do so by the minor after the minor was entitled to them. Upon receiving the minor's request, the financial institution may send a written demand to the custodian to transfer to the minor the funds in any Oklahoma Uniform Transfers to Minors Act deposit account. If the custodian does not make the distribution within thirty (30) days from the date of the financial institution's demand, the financial institution shall have the authority to close the account and pay out the funds directly to the minor without any liability or recourse from any parties.
Added by Laws 1986, c. 261, § 21, eff. Nov. 1, 1986. Amended by Laws 1993, c. 158, § 4, eff. Sept. 1, 1993; Laws 2015, c. 38, § 1, eff. Nov. 1, 2015.

§58-1222. Transfer under other laws after effective date of act.

The Oklahoma Uniform Transfers to Minors Act applies to a transfer within the scope of the provisions of Section 3 of this act which is made after the effective date of this act if:

1. the transfer purports to have been made according to the provisions of the Oklahoma Uniform Gifts to Minors Act; or

2. the instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the Uniform Gifts to Minors Act" or "as custodian under the Uniform Transfers to Minors Act" of any other state, and the application of the Oklahoma Uniform Transfers to Minors Act is necessary to validate the transfer.

Added by Laws 1986, c. 261, § 22, eff. Nov. 1, 1986.

§58-1223. Transfers under other law prior to effective date.

A. Any transfer of custodial property as that term is defined in the Oklahoma Uniform Transfers to Minors Act made before the effective date of this act is validated although there was no specific authority in the Oklahoma Uniform Gifts to Minors Act for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

B. The Oklahoma Uniform Transfers to Minors Act applies to all transfers made before the effective date of this act in a manner and form prescribed in the Oklahoma Uniform Gifts to Minors Act, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on the effective date of this act.

C. A transfer that purports to be made and which is valid under the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act, or a substantially similar act, of another state is governed by the law of the designated state and may be executed and is enforceable in this state if at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

D. With respect to the age of a minor for whom custodial property is held under the Oklahoma Uniform Transfers to Minors Act, paragraphs 1 and 11 of Section 1202 and paragraph 1 of subsection A of Section 1221 of this title do not apply to custodial property held in a custodianship which terminated because of the minor's attainment of the age of eighteen (18) years after November 1, 1986 and before September 1, 1993.

Added by Laws 1986, c. 261, § 23, eff. Nov. 1, 1986. Amended by Laws 1993, c. 158, § 5, eff. Sept. 1, 1993.

§58-1224. Application and construction.

The Oklahoma Uniform Transfers to Minors Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

Added by Laws 1986, c. 261, § 24, eff. Nov. 1, 1986.

§58-1225. Inapplicability of law to certain transfers - Effect.

To the extent that the Oklahoma Uniform Transfers to Minors Act, by virtue of subsection B of Section 23 of this act, does not apply to transfers made in a manner prescribed in the Oklahoma Uniform Gifts to Minors Act or to the powers, duties, and immunities conferred by transfers in that manner upon custodians and persons dealing with custodians, the repeal of Sections 401 through 410 and Sections 415 through 419 of Title 60 of the Oklahoma Statutes does not affect those transfers or those powers, duties, and immunities.

Added by Laws 1986, c. 261, § 25, eff. Nov. 1, 1986.

§58-1251. Short title.

Sections 1 through 8 of this act shall be known and may be cited as the “Nontestamentary Transfer of Property Act”.

Added by Laws 2008, c. 78, § 1, eff. Nov. 1, 2008.

§58-1252. Transfer-on-death deed - Notice to beneficiary - Acceptance of transfer-on-death deed.

A. An interest in real estate may be titled in transfer-on-death form by recording a deed, signed by the record owner of the interest, designating a grantee beneficiary or beneficiaries of the interest. The deed shall transfer ownership of the interest upon the death of the owner. A transfer-on-death deed need not be supported by consideration. For purposes of the Nontestamentary Transfer of

Property Act, an "interest in real estate" means any estate or interest in, over or under land, including surface, minerals, structures and fixtures.

B. The signature, consent or agreement of or notice to a grantee beneficiary or beneficiaries of a transfer-on-death deed shall not be required for any purpose during the lifetime of the record owner.

C. To accept real estate pursuant to a transfer-on-death deed, a designated grantee beneficiary shall execute an affidavit affirming:

1. Verification of the record owner's death;

2. Whether the record owner and the designated beneficiary were married at the time of the record owner's death; and

3. A legal description of the real estate.

D. The grantee shall attach a copy of the record owner's death certificate to the beneficiary affidavit. For a record owner's death occurring on or after November 1, 2011, the beneficiary shall record the affidavit and related documents with the office of the county clerk where the real estate is located within nine (9) months of the grantor's death, otherwise the interest in the property reverts to the deceased grantor's estate; provided, however, for a record owner's death occurring before November 1, 2011, such recording of the affidavit and related documents by the beneficiary shall not be subject to the nine-month time limitation. Notwithstanding the provisions of Section 26 of Title 16 of the Oklahoma Statutes, an affidavit properly sworn to before a notary shall be received for record and recorded by the county clerk without having been acknowledged and, when recorded, shall be effective as if it had been acknowledged.

Added by Laws 2008, c. 78, § 2, eff. Nov. 1, 2008. Amended by Laws 2010, c. 205, § 1, eff. Nov. 1, 2010; Laws 2011, c. 372, § 1, eff. Nov. 1, 2011; Laws 2015, c. 107, § 1, emerg. eff. April 20, 2015.

§58-1253. Transfer-on-death, form.

An interest in real estate is titled in transfer-on-death form by executing, acknowledging and recording in the office of the county clerk in the county where the real estate is located, prior to the death of the owner, a deed in substantially the following form:

_____ (name of owner) being of competent mind and having the legal capacity to execute this document, as owner transfers on death to _____ (name of beneficiary) as grantee beneficiary, the following described interest in real estate: (here insert description of the interest in real estate). THIS TRANSFER-ON-DEATH DEED IS REVOCABLE. IT DOES NOT TRANSFER ANY OWNERSHIP UNTIL THE DEATH OF THE OWNER. IT REVOKES ALL PRIOR BENEFICIARY DESIGNATIONS BY THIS OWNER FOR THIS INTEREST IN REAL ESTATE. THE GRANTOR HAS THE RIGHT TO WITHDRAW OR RESCIND THIS DEED AT ANY TIME. ANY BENEFICIARY NAMED IN THIS DEED IS HEREBY ADVISED

THAT THIS DEED MAY BE WITHDRAWN OR RESCINDED WHETHER OR NOT MONEY OR ANY OTHER CONSIDERATION WAS PAID OR GIVEN.

THE STATE OF OKLAHOMA

COUNTY OF _____

Before me, on this day personally appeared _____, _____, and _____, the owner of the land described in this deed, and the witnesses, respectively, whose names are subscribed below in their respective capacities, and the owner of the land declared to me and to the witnesses in my presence that the deed is a revocable transfer-on-death of the real estate described therein, and the witnesses declared in the presence of the owner of the real estate and in my presence that the owner of the land declared to them that the deed is a revocable transfer-on-death of the real estate described therein and that the owner of the land wanted each of them to sign it as a witness, and that each witness did sign the same as witness in the presence of the owner of the land and in my presence.

_____

(name of owner)

_____

(witness)

_____

(witness)

Subscribed and acknowledged before me by _____, the owner of the land, and _____ and _____, witnesses, this ___ day of _____ (month), _____ (year).

_____

(signature of notary public)

(Seal)

My commission expires _____ (date).

Instead of the words "transfer-on-death" the abbreviation "TOD" may be used.

Added by Laws 2008, c. 78, § 3, eff. Nov. 1, 2008.

§58-1254. Revocation or change of grantee beneficiary - Effect of will.

A. A designation of the grantee beneficiary may be revoked at any time prior to the death of the record owner, by executing, acknowledging and recording in the office of the county clerk in the county where the real estate is located an instrument revoking the designation. The signature, consent or agreement of or notice to the grantee beneficiary or beneficiaries to the revocation is not required.

B. A designation of the grantee beneficiary may be changed at any time prior to the death of the record owner, by executing, acknowledging and recording a subsequent transfer-on-death deed in accordance with the Nontestamentary Transfer of Property Act. The signature, consent or agreement of or notice to the grantee

beneficiary or beneficiaries is not required. A subsequent transfer-on-death beneficiary designation revokes all prior designations of grantee beneficiary or beneficiaries by the record owner for the interest in real estate.

C. A transfer-on-death deed executed, acknowledged and recorded in accordance with the Nontestamentary Transfer of Property Act may not be revoked by the provisions of a will.

Added by Laws 2008, c. 78, § 4, eff. Nov. 1, 2008. Amended by Laws 2011, c. 372, § 2, eff. Nov. 1, 2011.

§58-1255. Grantee interest subject to encumbrances - Non-consensual lien - Lapse of transfer.

A. Grantee beneficiaries of a transfer-on-death deed take the interest of the record owner in the real estate at the death of the grantor owner, free and clear of any claims or interest under Section 44 of Title 84 of the Oklahoma Statutes as to a person who became the spouse of the grantor subsequent to the execution of the transfer-on-death deed, subject to all recorded conveyances, assignments, contracts, mortgages, liens and security pledges made by the record owner or to which the record owner was subject during the lifetime of the record owner including, but not limited to, any recorded executory contract of sale, option to purchase, lease, license, easement, mortgage, deed of trust or lien, and to any interest conveyed by the record owner that is less than all of the record owner's interest in the property, provided however, a non-consensual lien against the grantee beneficiary shall not attach to the property until the recording of the affidavit described in Section 1252 of this title.

B. If one or more of the grantee beneficiaries dies prior to the death of the grantor owner, the transfer to those beneficiaries who predecease the grantor owner shall lapse. In the event the grantee beneficiaries are designated in the deed to be joint tenants with right of survivorship, the death of one or more of the grantee beneficiaries prior to the death of the grantor owner shall not invalidate an otherwise validly created joint tenancy estate as to those grantee beneficiaries who are living at the time of the death of the grantor owner.

Added by Laws 2008, c. 78, § 5, eff. Nov. 1, 2008. Amended by Laws 2011, c. 372, § 3, eff. Nov. 1, 2011.

§58-1256. Effect of deed on joint tenancy – "Joint owner" defined.

A. A record joint owner of an interest in real estate may use the procedures in the Nontestamentary Transfer of Property Act to title the interest in transfer-on-death form. However, title to the interest shall vest in the designated grantee beneficiary or beneficiaries only if the record joint owner is the last to die of

all of the record joint owners of the interest. A deed in transfer-on-death form shall not sever a joint tenancy.

B. As used in this section, "joint owner" means a person who owns an interest in real estate as a joint tenant with right of survivorship.

Added by Laws 2008, c. 78, § 6, eff. Nov. 1, 2008.

§58-1257. Record owner considered absolute owner.

A record owner who executes a transfer-on-death deed remains the legal and equitable owner until the death of the owner and during the lifetime of the owner is considered an absolute owner as regards creditors and purchasers.

Added by Laws 2008, c. 78, § 7, eff. Nov. 1, 2008.

§58-1258. Transfer-on-death deed not considered testamentary disposition.

A deed in transfer-on-death form, executed in conformity with the Nontestamentary Transfer of Property Act, shall not be considered a testamentary disposition and shall not be invalidated due to nonconformity with other provisions in Title 58 or Title 84 of the Oklahoma Statutes.

Added by Laws 2008, c. 78, § 8, eff. Nov. 1, 2008.