

provision survivors receive property subject to whatever liens were against it at the time of the decedent's death. This changes the common law rule as expressed in Estate of Budd, 11 Wis. 2d 248, 105 N.W. 2d 358 (1960). [Bill 5-S]

**863.15 History:** 1969 c. 339; Stats. 1969 s. 863.15.

**863.16 History:** 1969 c. 339; Stats. 1969 s. 863.16.

**Legislative Council Note, 1969:** This section is new and it makes clear that fractional distribution is to be based upon value at the time of distribution. [Bill 5-S]

**863.17 History:** 1969 c. 339; Stats. 1969 s. 863.17.

**Legislative Council Note, 1969:** This section is a restatement of present s. 318.06 (9). [Bill 5-S]

**863.19 History:** 1969 c. 339; Stats. 1969 s. 863.19.

**Legislative Council Note, 1969:** This section was adopted by the 1965 Legislature to meet problems involved in securing the marital deduction under federal estate tax rules. [Bill 5-S]

**863.21 History:** 1969 c. 339; Stats. 1969 s. 863.21.

**Legislative Council Note, 1969:** This section is based upon present s. 310.11. [Bill 5-S]

**863.23 History:** 1969 c. 339; Stats. 1969 s. 863.23.

**Legislative Council Note, 1969:** This section is a restatement of present s. 318.06 (7). [Bill 5-S]

**863.25 History:** 1969 c. 339; Stats. 1969 s. 863.25.

**Legislative Council Note, 1969:** This section is a restatement of present s. 318.06 (1) and (2). [Bill 5-S]

**863.27 History:** 1969 c. 339; Stats. 1969 s. 863.27.

**Legislative Council Note, 1969:** This section is a restatement of present ss. 230.47 (3) and 318.06. [Bill 5-S]

**863.29 History:** 1969 c. 339; Stats. 1969 s. 863.29.

**Legislative Council Note, 1969:** This section is a restatement of present ss. 318.06 (4) and 318.065. [Bill 5-S]

**863.31 History:** 1969 c. 339; Stats. 1969 s. 863.31.

**Legislative Council Note, 1969:** Sub. (1) is based upon s. 318.06 (3). Sub. (2) is new and makes it clear that final judgment is in fact final. [Bill 5-S]

**863.33 History:** 1969 c. 339; Stats. 1969 s. 863.33.

**Legislative Council Note, 1969:** This section is based upon ss. 313.13 and 313.14, however, instead of setting a specific time in which estates must be settled, it leaves the time in the discretion of the court. [Bill 5-S]

**863.35 History:** 1969 c. 339; Stats. 1969 s. 863.35.

**Legislative Council Note, 1969:** This section is based upon present ss. 313.14 and 324.355. [Bill 5-S]

**863.37 History:** 1969 c. 339, 392; Stats. 1969 s. 863.37.

**Legislative Council Note, 1969:** This section is a restatement of present s. 318.06 (8). [Bill 5-S]

**863.39 History:** 1969 c. 339; Stats. 1969 s. 863.39.

**Legislative Council Note, 1969:** This section is a restatement of present s. 318.03. [Bill 5-S]

**863.41 History:** 1969 c. 339; Stats. 1969 s. 863.41.

**Legislative Council Note, 1969:** This section is new and is designed to speed up the closing of estates. [Bill 5-S]

**863.43 History:** 1969 c. 339; Stats. 1969 s. 863.43.

**Legislative Council Note, 1969:** This section is based upon present s. 318.07. [Bill 5-S]

**863.45 History:** 1969 c. 339; Stats. 1969 s. 863.45.

**Legislative Council Note, 1969:** This section is based upon present s. 318.075. [Bill 5-S]

**863.47 History:** 1969 c. 339; Stats. 1969 s. 863.47.

**Legislative Council Note, 1969:** This section is based upon present s. 318.06 (5). The last sentence is new and provides a 6-year statute of limitations. [Bill 5-S]

**863.49 History:** 1969 c. 339; Stats. 1969 s. 863.49.

**Legislative Council Note, 1969:** This section is new and is designed to clear the records of abandoned proceedings. [Bill 5-S]

## CHAPTER 867.

### Summary Procedures.

**Legislative Council Note, 1969:** This chapter contains the provisions for summary settlement and determination of the rights of survivors which are scattered throughout the probate chapters. [Bill 5-S]

**867.01 History:** 1969 c. 339; Stats. 1969 s. 867.01.

**Legislative Council Note, 1969:** Sub. (1) (b) broadens the existing statute to include all estates of \$5,000 or less when the decedent is survived by a spouse from whom he is not living apart or by minor children. [Bill 5-S]

**867.02 History:** 1969 c. 339; 1969 c. 393 s. 7; Stats. 1969 s. 867.02.

**Legislative Council Note, 1969:** This section is new. This section provides that when the estate less the amount of the debts for which any property in the estate is security does not exceed \$10,000 and the estate cannot be summarily settled under s. 867.01, the assets of the estate may be summarily assigned. This section provides that there shall be one pub-

lication and that 30 days after the publication the court shall assign the property to creditors and persons interested. The assignments are subject to the rights of unknown creditors and persons interested. Three months after the delivery of the order to a creditor or to a person interested all rights of unknown creditors and persons interested cease. Up to that time the assignees of the property are liable to unknown creditors and persons interested. [Bill 5-S]

**867.03 History:** 1969 c. 339; Stats. 1969 s. 867.03.

**Legislative Council Note, 1969:** This section is new. It allows the transfer by affidavit of solely owned property when the entire estate does not exceed \$1,500.00. [Bill 5-S]

**867.04 History:** 1969 c. 339; Stats. 1969 s. 867.04.

**Legislative Council Note, 1969:** This section is based upon present ss. 230.47 and 230.48. It deletes provisions applicable to Milwaukee county which have been held to be unconstitutional. [Bill 5-S]

**867.05 History:** 1969 c. 339; Stats. 1969 s. 867.05.

**Legislative Council Note, 1969:** This section broadens the existing statute to cover personal as well as real property, but makes it available only after the statute of limitations on claims has run. (893.19 (9)). [Bill 5-S]

**867.07 History:** 1969 c. 339; Stats. 1969 s. 867.07.

**Legislative Council Note, 1969:** This section is a restatement of present s. 311.06. [Bill 5-S]

**867.09 History:** 1969 c. 339; Stats. 1969 s. 867.09.

**Legislative Council Note, 1969:** This section is new and clarifies who has standing to petition for the appointment of a special administrator. [Bill 5-S]

**867.11 History:** 1969 c. 339; Stats. 1969 s. 867.11.

**Legislative Council Note, 1969:** This section is a restatement of present s. 311.07. [Bill 5-S]

**867.13 History:** 1969 c. 339; Stats. 1969 s. 867.13.

**Legislative Council Note, 1969:** This section is based upon s. 311.08. However, this section makes bonding optional with the court. [Bill 5-S]

**867.15 History:** 1969 c. 339; Stats. 1969 s. 867.15.

**Legislative Council Note, 1969:** This section is based upon present s. 311.075. Language relating to payment of debts by the special administrator has been deleted. See comment to s. 867.17. [Bill 5-S]

**867.17 History:** 1969 c. 339; Stats. 1969 s. 867.17.

**Legislative Council Note, 1969:** This section is based upon present s. 311.09 (1) to (6). In s. 311.09 the special administrator is given all sorts of statutory powers plus the power "to do such other things as the court may direct",

this section upon hearing grants special administrators all powers except as specially limited by the court. If no hearing is held the special administrator has only those powers expressly granted to him. [Bill 5-S]

**867.19 History:** 1969 c. 339; Stats. 1969 s. 867.19.

**Legislative Council Note, 1969:** This section is based upon present s. 311.09 (7) but does away with the per diem for special administrators. [Bill 5-S]

**867.21 History:** 1969 c. 339; Stats. 1969 s. 867.21.

**Legislative Council Note, 1969:** This section is based upon present s. 311.10. Sub. (1) is deleted because the court has these powers without a special section. [Bill 5-S]

## CHAPTER 868.

### Ancillary Procedures.

**Legislative Council Note, 1969:** This chapter contains all the sections relating to ancillary probate procedure. [Bill 5-S]

**868.01 History:** 1969 c. 339; Stats. 1969 s. 868.01.

**Legislative Council Note, 1969:** This section is present s. 310.07 unchanged. [Bill 5-S]

**868.03 History:** 1969 c. 339; Stats. 1969 s. 868.03.

**Legislative Council Note, 1969:** This section is present s. 324.31 unchanged. [Bill 5-S]

**868.05 History:** 1969 c. 339; Stats. 1969 s. 868.05.

**Legislative Council Note, 1969:** This broadens the existing statute to cover personal as well as real property, but makes it available only after the statute of limitations on claims has run. (893.19 (9)). [Bill 5-S]

## CHAPTER 878.

### Probate Court Bonds.

**Legislative Council Note, 1969:** This chapter replaces chapter 321. [Bill 5-S]

**878.01 History:** 1969 c. 339; Stats. 1969 s. 878.01.

**Legislative Council Note, 1969:** This section is a restatement of present s. 321.01. [Bill 5-S]

**878.03 History:** 1969 c. 339; Stats. 1969 s. 878.03.

**Legislative Council Note, 1969:** This section is new but has always been the law, what the section does is make cross reference to the bonds of corporate fiduciary under s. 220.09 or 223.02. [Bill 5-S]

**878.05 History:** 1969 c. 339; Stats. 1969 s. 878.05.

**Legislative Council Note, 1969:** This section is based upon s. 321.05. [Bill 5-S]

**878.07 History:** 1969 c. 339; Stats. 1969 s. 878.07.

**Legislative Council Note, 1969:** This section