

No. 202, S.]

[Published May 26, 1951.]

CHAPTER 253.

AN ACT to repeal 310.08 and to repeal and recreate 310.07 of the statutes, relating to probate of foreign wills and to make uniform the law relating thereto.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 310.07 of the statutes is repealed and recreated to read:

310.07 PROBATE OF FOREIGN WILLS. (1) PROBATE ON PROOF OF DOMICILIARY PROBATE; EFFECT. The written will of a testator who died domiciled outside this state, which upon probate may operate upon any property in this state, shall be admitted to probate upon proof that it stands probated or established in the jurisdiction where the testator died domiciled and is not being contested there. A will probated under this subsection is sufficient to operate on any property within the terms of the will, subject to any limitations upon its operation imposed by the law of the jurisdiction where the testator died domiciled. Rights to take against the will are not affected by this subsection.

(2) LOCAL CONTEST LIMITED; SETTING ASIDE LOCAL PROBATE. A will offered for probate under subsection (1) may be contested only upon the ground that the conditions of that subsection are not met or that it has been finally rejected from probate in this state; but probate under subsection (1) shall be set aside upon proof that probate or establishment of the will has been set aside in the jurisdiction where the testator died domiciled, if, within one year after such probate in this state under subsection (1), application is made in this state to set aside such probate upon such ground, or verified notice that proceedings have been taken to contest the will in the jurisdiction where the testator died domiciled, is filed, and in the case of real property, also recorded as provided in subsection (3).

(3) PROTECTION OF PROBATE UNDER SUBSECTION (1). If within one year after probate under subsection (1), verified notice that proceedings have been taken to contest the will in the jurisdiction where the testator died domiciled is filed in the court of this state where probate was granted, and, in the case of real property, also recorded in the office of the register of deeds in the county where the real property is located, the protection of probate ceases until proof that the domiciliary proceedings have been terminated in favor of the will or were never actually taken is filed and, in the case of real property, also recorded as above provided.

(4) EFFECT OF REJECTION OF WILL AT DOMICILE. Final rejection of the will from probate or establishment in the jurisdiction where the testator died domiciled is conclusive in this state except where the will has been rejected solely for a cause which is not ground for rejection of a will of a testator who died domiciled in this state, in which case the will nevertheless may be admitted to probate under subsection (5).

(5) ORIGINAL PROBATE; WHEN ALLOWED. Original probate of the will of a testator who died domiciled outside this state, which upon probate may operate upon any property in this state and is valid under the laws of this state, may be granted if the will does not stand rejected from probate or establishment in the jurisdiction where the testator died domiciled, or stands rejected from probate or establishment in the jurisdiction where the testator died domiciled solely for a cause which is not ground for rejection of a will of a testator who died domiciled in this state. The court may delay passing on the application for probate under this subsection pending the result of probate or establishment or contest at the domicile or of the application for probate under subsection (1).

(6) PROOF OF WILL BY PROBATE IN NONDOMICILIARY JURISDICTION. If a testator dies domiciled outside this state, an authenticated copy of his will and of the probate or establishment thereof in a jurisdiction other than the one in which he died domiciled shall be sufficient proof of the contents and legal sufficiency of the will to authorize the admission of the will to probate under subsection (5) if no objection is made thereto. This subsection does not authorize the probate of any will which would not be admissible to probate under subsection (5), nor, in case objection is made to the will, to relieve proponent from offering proof of the contents and legal sufficiency of the will except that the original will need not be produced unless the court so orders.

(7) AUTHENTICATION AND TRANSLATION. Proof contemplated by this section may be made by authenticated copies of the will and the records of judicial proceedings with reference thereto. If the will has not been probated but is otherwise established under the laws of the jurisdiction where the testator died domiciled, its contents and establishment may be proved by the authenticated certificate of the notary or other official having custody of the will or having authority in connection with its establishment. If the respective documents or any part thereof are not in the English language, verified translations may be attached thereto and shall be regarded as sufficient proof of the contents of the documents unless objection is made thereto. If any person in good faith relies upon probate under this section he shall not thereafter be prejudiced because of inaccuracy of such translations, or because of proceedings to set aside or modify the probate on that ground.

(8) GENERAL LAW TO APPLY. Except where otherwise provided, the law of this state relating to wills and to the probate, contest and effect thereof shall apply in case of a testator who died domiciled outside this state.

(9) UNIFORMITY OF INTERPRETATION. This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 2. 310.08 of the statutes is repealed.

SECTION 3. This act shall take effect January 1, 1952.

Approved May 23, 1951.
