

# State of Wisconsin



1999 Assembly Bill 358

Date of enactment: **April 25, 2000**

Date of publication\*: **May 8, 2000**

## 1999 WISCONSIN ACT 94

AN ACT to renumber 867.01 (3) (intro.) (except 867.01 (3) (title)) and 867.02 (2) (intro.) (except 867.02 (2) (title)); to renumber and amend 867.01 (3) (a) and 867.02 (2) (a); to amend 30.541 (3) (d) 2. d., 214.37 (4) (k) 1., 215.26 (8) (e) 1., 342.17 (4) (b) 4., 867.01 (1) (b), 867.02 (1) and 867.03 (1g) (intro.); and to create 865.202, 867.01 (3) (ac) (title), 867.02 (2) (ac) (title) and 867.03 (2m) of the statutes; relating to: informal administration of estates and summary procedures for settling estates.

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

**SECTION 1.** 30.541 (3) (d) 2. d. of the statutes is amended to read:

30.541 (3) (d) 2. d. The limit in subd. 2. c. does not apply if the surviving spouse proceeds under s. 867.03 (1g) and the total value of the decedent's solely owned property in the state, including boats transferred under this subdivision, does not exceed ~~\$10,000~~ \$20,000.

**SECTION 2.** 214.37 (4) (k) 1. of the statutes is amended to read:

214.37 (4) (k) 1. An affidavit stating that the person has standing under s. 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or assignment of a decedent's estate or that the person is an heir of the decedent, or was guardian, as defined in s. 880.01 (3), of the decedent at the time of the decedent's death, and may obtain transfer of property of a decedent under s. 867.03.

**SECTION 3.** 215.26 (8) (e) 1. of the statutes is amended to read:

215.26 (8) (e) 1. Submits an affidavit stating that the person has standing under s. 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or assignment of a decedent's estate or that the person is an heir of the de-

cedent, or was guardian, as defined in s. 880.01 (3), of the decedent at the time of the decedent's death, and may obtain transfer of property of a decedent under s. 867.03; and

**SECTION 4.** 342.17 (4) (b) 4. of the statutes is amended to read:

342.17 (4) (b) 4. The limit in subd. 3. does not apply if the surviving spouse is proceeding under s. 867.03 (1g) and the total value of the decedent's solely owned property in the state, including the vehicles transferred under this paragraph, does not exceed ~~\$10,000~~ \$20,000.

**SECTION 5.** 865.202 of the statutes is created to read:

**865.202 Transfer of interest in property.** (1) If the estate is closed under s. 865.16, the personal representative may file with the probate registrar a verified statement describing property in which the decedent had an interest other than an interest specified in s. 865.20 or 865.201, including the recording data, if any, of the document creating the interest, and specifying the persons to whom the property is distributed. Valuations need not be set forth in the statement.

(2) Upon being filed with the probate registrar, the statement shall be presumed to be evidence of the facts recited, of the termination of the decedent's interest in the property listed and of the transfer of the interest in the

\* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

property to the persons entitled to the interest, as if a final judgment regarding the distribution of the property had been issued by the court under s. 863.27. If the statement describes an interest in real property or a debt that is secured by an interest in real property a certified copy or duplicate original of the statement shall be recorded in the office of the register of deeds in each county in this state in which the real property is located.

**SECTION 6.** 867.01 (1) (b) of the statutes is amended to read:

867.01 (1) (b) Whenever the estate, less the amount of the debts for which any property in the estate is security, does not exceed \$30,000 \$50,000 in value and the decedent is survived by a spouse or one or more minor children or both.

**SECTION 7.** 867.01 (3) (intro.) (except 867.01 (3) (title)) of the statutes is renumbered 867.01 (3) (ac).

**SECTION 8.** 867.01 (3) (a) of the statutes is renumbered 867.01 (3) (am), and 867.01 (3) (am) (title), as renumbered, is amended to read:

867.01 (3) (am) (title) *Petition contents.*

**SECTION 9.** 867.01 (3) (ac) (title) of the statutes is created to read:

867.01 (3) (ac) (title) *Who may petition.*

**SECTION 10.** 867.02 (1) of the statutes is amended to read:

867.02 (1) AVAILABILITY. The court shall summarily assign the estate of a deceased person without the appointment of a personal representative if the estate, less the amount of the debts for which any property in the estate is security, does not exceed \$30,000 \$50,000 in value and the estate cannot be summarily settled under s. 867.01. An estate, administration of which has been commenced under ch. 856, or a summary settlement commenced under s. 867.01 may be terminated under this section at any time that it is found to meet the requirements of this section.

**SECTION 11.** 867.02 (2) (intro.) (except 867.02 (2) (title)) of the statutes is renumbered 867.02 (2) (ac).

**SECTION 12.** 867.02 (2) (a) of the statutes is renumbered 867.02 (2) (am), and 867.02 (2) (am) (title) and 1., as renumbered, are amended to read:

867.02 (2) (am) (title) *Petition contents.* 1. A statement that the estate does not exceed \$30,000 \$50,000 in value and cannot be summarily settled under s. 867.01.

**SECTION 13.** 867.02 (2) (ac) (title) of the statutes is created to read:

867.02 (2) (ac) (title) *Who may petition.*

**SECTION 14.** 867.03 (1g) (intro.) of the statutes is amended to read:

867.03 (1g) GENERALLY. (intro.) When a decedent leaves solely owned property in this state which does not exceed \$40,000 \$20,000 in value, any heir of the decedent or person who was guardian of the decedent at the time of the decedent's death may collect any money due the decedent, receive the property of the decedent ~~if it is not an interest in or lien on real property~~ and have any evidence of interest, obligation to or right of the decedent transferred to the affiant ~~upon furnishing if the heir or guardian provides to~~ the person owing the money, having custody of the property or acting as registrar or transfer agent of the evidences of interest, obligation to or right, ~~with or, if the property is an interest in or lien on real property, provides to the register of deeds preliminary to the recording required under sub. (2m),~~ proof of prior mailed notice under sub. (1m) if applicable and ~~with~~ an affidavit in duplicate showing all of the following:

**SECTION 15.** 867.03 (2m) of the statutes is created to read:

867.03 (2m) RECORDING OF AFFIDAVIT. (a) If an affidavit under sub. (1g) describes an interest in or lien on real property a certified copy or duplicate original of the affidavit shall be recorded in the office of the register of deeds in each county in this state in which the real property is located.

(b) For purposes of a transfer under this section of an interest in or lien on real property, the recording of the affidavit copy or duplicate original constitutes the transfer to the affiant under sub. (1g) of the evidence of the interest in or lien on real property.

**SECTION 16. Initial applicability.**

(1) This act first applies to deaths occurring on the effective date of this subsection.