

amount of property passing to the family ahead of creditors. Thus the total escaping from legitimate creditor claims may be a staggering amount or a very small amount depending upon the composition of the estate, and may also have no relation to the need of the recipient.

This section makes a fresh approach. It bases the exemption directly on the need of the surviving spouse for support ahead of payment of creditors. It is limited to the surviving spouse, since the court can protect minor children under 861.35 ahead of creditors. There is no reason to protect adult children; they should have no right prior to creditors. Furthermore, the exemption does not depend on the presence or absence of a home in the estate, although under sub. (4) the court may assign the home (or a life estate) against the exemption. But if there is no home, the surviving spouse can be allocated other property.

The amount is limited to \$10,000. However, the court is not required to allot this amount but may give a lesser amount or no exemption at all. In making this determination the court is directed to consider other assets available to the surviving spouse. This would include assets already owned by the survivor as well as assets acquired as surviving joint tenant or proceeds of life insurance or any other assets passing at death. [Bill 5-S]

CHAPTER 862.

Accounts.

Legislative Council Note, 1969: This chapter replaces chapter 317. [Bill 5-S]

862.01 History: 1969 c. 339; Stats. 1969 s. 862.01.

Legislative Council Note, 1969: This section is based upon and is a consolidation of ss. 310.20 (2), 312.11 and 317.05. [Bill 5-S]

862.03 History: 1969 c. 339; Stats. 1969 s. 862.03.

Legislative Council Note, 1969: This section is based upon present ss. 310.20 (2), 317.13 and 317.14, but it provides a complete procedure for getting accounts filed in estates when the original personal representative has failed to file. [Bill 5-S]

862.05 History: 1969 c. 339; Stats. 1969 s. 862.05.

Legislative Council Note, 1969: This section is a restatement of present s. 317.01 (1). [Bill 5-S]

862.07 History: 1969 c. 339; Stats. 1969 s. 862.07.

Legislative Council Note, 1969: This section is based upon present ss. 317.01 (2) and 317.02. [Bill 5-S]

862.09 History: 1969 c. 339; Stats. 1969 s. 862.09.

Legislative Council Note, 1969: This section is based upon present ss. 317.01 (2) and 317.11. [Bill 5-S]

862.11 History: 1969 c. 339; Stats. 1969 s. 862.11.

Legislative Council Note, 1969: This is one of the new requirements adopted for the purpose of keeping the persons interested in the estate periodically informed of the progress of the administration and aware of the facts which affect the share of the estate which they will receive. Persons interested "whose distribution is affected by the information, other than inheritance tax information, contained in the account" includes all those who receive a residual or fractional share of the estate, but does not include those who receive only specific or monetary bequests unless their bequest is subject to abatement. [Bill 5-S]

862.13 History: 1969 c. 339; Stats. 1969 s. 862.13.

Legislative Council Note, 1969: This section is based upon s. 317.15. [Bill 5-S]

862.15 History: 1969 c. 339; Stats. 1969 s. 862.15.

Legislative Council Note, 1969: This section is based upon present s. 317.05. [Bill 5-S]

862.17 History: 1969 c. 339; Stats. 1969 s. 862.17.

Legislative Council Note, 1969: This section is based upon present ss. 324.35 and 324.351. [Bill 5-S]

CHAPTER 863.

Closing Estates.

Legislative Council Note, 1969: This chapter replaces chapter 318. [Bill 5-S]

863.01 History: 1969 c. 339; Stats. 1969 s. 863.01.

Legislative Council Note, 1969: This section is new. The provision gives more power to the personal representative to speed distribution and reflects current practice. [Bill 5-S]

863.05 History: 1969 c. 339; Stats. 1969 s. 863.05.

Legislative Council Note, 1969: This section is new. See comment to s. 859.27. [Bill 5-S]

863.07 History: 1969 c. 339; Stats. 1969 s. 863.07.

Legislative Council Note, 1969: This section permits a person interested to assign his interest in the estate, but protects any personal representative who distributes property before he has knowledge of the assignment. [Bill 5-S]

863.09 History: 1969 c. 339; Stats. 1969 s. 863.09.

Legislative Council Note, 1969: This section is a restatement of present s. 318.01 (3) and (4). [Bill 5-S]

863.11 History: 1969 c. 339; Stats. 1969 s. 863.11.

Legislative Council Note, 1969: This section is a restatement of ss. 313.26, 313.27, and 313.28 and existing case law. [Bill 5-S]

863.13 History: 1969 c. 339; Stats. 1969 s. 863.13.

Legislative Council Note, 1969: Under this

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-