

CHAPTER 67
SB 107 – FINAL VERSION

03/07/13 0506s

2013 SESSION

13-0950
01/10

SENATE BILL **107**

AN ACT relative to probate administration.

SPONSORS: Sen. Lasky, Dist 13; Sen. Carson, Dist 14; Sen. Soucy, Dist 18; Rep. Gale, Hills 28;
Rep. Hackel, Hills 29

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill makes changes to probate administration. The changes include:

I. Proof of a will by the assent of the heirs and the director of charitable trusts under certain circumstances.

II. Expanding waiver of administration to situations where a parent or a revocable trust is the only heir.

III. Changes in the statute relative to inventory.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to probate administration.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 67:1 Proof, Common Form. Amend RSA 552:6 to read as follows:

2 552:6 Proof, Common Form. If the probate of a will is not contested the judge may allow and
3 approve it in common form, upon the testimony of one of the subscribing witnesses, though the
4 others are living and within process of the court, ***or upon the assent of the surviving spouse,***
5 ***legatees, devisees, heirs at law and, in the case of an unnamed charitable interest, the***
6 ***assent of the director of charitable trusts, without the need for a witness to appear.***

7 67:2 Waiver of Administration. RSA 553:32, I is repealed and reenacted to read as follows:

8 I.(a) Notwithstanding any provision of law, there shall be no requirement for an inventory of
9 the estate, no requirement for a bond, and no requirement for an accounting for assets in the
10 following circumstances:

11 (1) Whenever a decedent dies testate and the surviving spouse is named in the will
12 as the sole beneficiary of the decedent's estate and is appointed to serve as administrator.

13 (2) Whenever a decedent dies testate and, if there is no surviving spouse, an only
14 child is named in the will as the sole beneficiary of the decedent's estate and is appointed to serve as
15 administrator.

16 (3) Whenever a decedent dies testate and, if there is no surviving spouse or child, a
17 parent is the sole beneficiary of the decedent's estate and is appointed to serve as administrator.

18 (4) Whenever a decedent dies testate and, if there is no surviving spouse or child, the
19 decedent's parents are the sole beneficiaries of the decedent's estate and both parents are appointed
20 to serve as co-administrators.

21 (5) Whenever a decedent dies testate and a trust created by the decedent is named
22 as the sole beneficiary of the estate and the trustee is appointed to serve as administrator or any
23 appropriate person is appointed to serve as administrator with the assent of the trustee.

24 (6) Whenever a decedent dies intestate and the surviving spouse is the sole heir and
25 is appointed to serve as administrator.

26 (7) Whenever a decedent dies intestate and, if there is no surviving spouse, an only
27 child is the sole heir of the decedent's estate and is appointed to serve as administrator.

28 (8) Whenever a decedent dies intestate and, if there is no surviving spouse or child, a
29 parent is the only heir and is appointed to serve as administrator.

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1 (9) Whenever a decedent dies intestate and, if there is no surviving spouse or child,
2 the decedent's parents are the sole heirs and both parents are appointed to serve as co-
3 administrators.

4 (b) Administration of the estate shall be completed upon the administrator's filing, and
5 the probate court's approval of an affidavit of administration. Such filing shall occur not less than 6
6 months or more than one year after the date of appointment of the administrator. The affidavit of
7 administration shall state that to the best of the knowledge and belief of the administrator there are
8 no outstanding debts or obligations attributable to the decedent's estate and shall list all real estate
9 owned by the decedent at the time of death, including the location, book, and page.

10 (c) If the administrator fails to file the affidavit of administration within the time
11 prescribed in subparagraph (b), the administrator is in default. The clerk shall give notice of the
12 default to the administrator by first class mail within 10 days after the default. The clerk shall issue
13 a citation notice in accordance with RSA 554:26-a.

14 67:3 New Paragraph; Waiver of Administration. Amend RSA 553:32 by inserting after
15 paragraph V the following new paragraph:

16 VI. The provisions of this section do not relieve the administrator from the responsibility for
17 payment of the expenses of administration and decedent's debts from the assets of the estate
18 pursuant to RSA 554 and RSA 556.

19 67:4 Inventory. RSA 554:1 is repealed and reenacted to read as follows:

20 554:1 Inventory.

21 I. Every administrator shall file under the penalties of law, with the court, within 90 days
22 after the date of appointment, a full, true, and itemized inventory of all the estate of the decedent
23 which has come to the administrator's knowledge. If an administrator fails to file an inventory
24 within 30 days after the required filing date, the administrator is in default. The clerk shall give
25 notice of the default to the administrator by first class mail within 10 days after the default. The
26 clerk shall issue a citation notice in accordance with RSA 554:26-a. The inventory shall contain a
27 detailed itemized list of all real and personal property and the fair market values thereof as of the
28 decedent's date of death, and how such value was determined, whether by appraisal, tax
29 information, bank statement or other source. It shall be an unsworn falsification punishable
30 pursuant to RSA 641:3 for the administrator to make a false statement on the inventory.

31 II. No appraiser shall be required to provide an opinion of the value of the assets listed by
32 the administrator on the inventory; except that the judge may appoint one or more appraisers, either
33 upon a motion of an interested person or on the probate court's own action, if the nature of the
34 property or the size of the estate or some other cause makes it advisable to do so.

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1 III. If any person claims a present legal or equitable right of title to real or personal property
2 in the estate of the decedent, the administrator may petition the probate court pursuant to
3 RSA 547:11-b to determine the question as between the parties.

4 67:5 Repeal. RSA 554:3, relative to appointment of appraisers, is repealed.

5 67:6 Effective Date. This act shall take effect January 1, 2014.

6 Approved: June 6, 2013

7 Effective Date: January 1, 2014