

59-2249. Hearing and final decree; real estate; distributive share subject to order of garnishment. (a) On the hearing, unless otherwise ordered, the executor or administrator shall, and other persons may, be examined relative to the account and the distribution of the estate. If all the taxes payable by the estate have been paid so far as there are funds to pay them and the account is correct, it shall be settled and allowed. If the account is incorrect, it shall be corrected and then settled and allowed. Upon settlement and allowance, the court shall determine the heirs, devisees and legatees entitled to the estate and assign it to them by its decree, pursuant to the terms of the will, the laws of intestate succession in effect on the date of the decedent's death or a valid settlement agreement. The decree shall name the heirs, devisees and legatees; describe the property; and state the proportion or part thereof to which each is entitled. The decree shall be binding as to all the estate of the decedent, whether specifically described in the proceedings or not. In the estate of a testate decedent, no heirs need be named in the decree unless they have, as such, an interest in the estate.

(b) When the final decree includes real estate, such decree, or a certified copy of it, may be entered on the transfer record of the county clerk of the proper county. When any such decree which includes real estate shall become final, it shall be the duty of the court to transmit a certified copy of it to the county clerk and the county clerk shall enter it on the transfer record in the clerk's office.

(c) If any person entitled to receive a distributive share of an estate pursuant to a decree hereunder is the defendant in a garnishment action or proceeding in which the executor or administrator of the estate is the garnishee, the person's distributive share shall be subject to the order of garnishment served upon the executor or administrator, and no property or funds of the estate shall be delivered or paid over to the person until further order of the court from which the order of garnishment was issued.

History: L. 1939, ch. 180, § 225; L. 1949, ch. 314, § 1; L. 1972, ch. 222, § 16; L. 1976, ch. 242, § 39; L. 1985, ch. 191, § 39; L. 1989, ch. 174, § 2; L. 1990, ch. 198, § 3; L. 2000, ch. 76, § 4; L. 2010, ch. 44, § 22; July 1.