

59-2705. Termination of trust estate of absentee; administration of estate of absentee presumed dead or person reported missing in action. (a) At any time, upon petition signed by the absentee or on a petition of an attorney-in-fact acting upon an adequate power of attorney granted by the absentee, the court shall declare the absentee alive and order the state registrar to rescind the presumptive death certificate and direct the termination of the trust estate and the transfer of all property held thereunder to the absentee or to the designated attorney-in-fact.

(b) Upon the petition of any person interested in the estate of an absentee presumed to be dead, and on proof thereof in addition to all other matters required by law to be proved for the appointment of an administrator or executor, the district court shall proceed to administer the estate of such absentee as if such absentee was known to have died on the date of the filing of such petition.

(c) Upon petition of any person interested in the estate of any person reported by the United States department of defense as missing in action for over three years, the district court, upon proof that such person has been reported as missing in action for over three years, shall proceed to terminate the trust estate of such absentee in the same manner as the final settlement of a decedent's estate. The district court shall proceed to administer the estate of such absentee as if such absentee was known to have died on the date of the filing of such petition, but the district court shall not declare the absentee to be deceased.

(d) All laws now or hereafter enacted for the administration of estates of known decedents shall be applicable to absentees declared presumptively dead under K.S.A. 59-2708, and amendments thereto, and subsection (b) of this section, except:

(1) No administrator, executor or personal representative of such absentee shall make a final distribution of the assets of such estate until the expiration of three years after the date of presumptive death, provided that assets in the estate of such absentee which are exempt from attachment by creditors, including moneys paid by the United States of such nature and other assets of any such estate which would otherwise be available for the support of the spouse, children and other dependents of such absentee, if such absentee were alive, after allowance for debts and costs of administration, may be paid for the support of the spouse and children and dependents of such absentee upon order of the court until such time as distribution may be made or administration terminated. If the absentee has not appeared after the period of three years the court's finding shall become effective to permit final distribution of such person's estate.

(2) Upon final settlement of the absentee's estate the provisions of subsection (e) shall apply.

(e) All laws now or hereafter enacted for the administration of estates of known decedents shall be applicable to the settlement of estates authorized by subsections (b), (c) and (d) except:

(1) If such absentee should return within five years after entry of the order of final settlement, any order made during such administration shall be subject to being set aside on such absentee's application for good cause shown and filed within three months after such absentee learned, or reasonably could have learned of such order; but setting aside any such order shall not prejudice the rights of any person who has acquired an interest in any property for value, or of any trustee, executor or administrator who has acted in good faith in accordance with the provisions of this act.

(2) No distributee of a share or interest in the estate shall receive or be assigned the same on final settlement until such distributee shall have filed a bond conditioned that if such absentee shall return within five years from receipt or assignment of the same and make claim thereto, such property, or the reasonable value thereof if it has been disposed of, together with the net income therefrom, shall be returned to the absentee.

The court may require sureties on such bond, which sureties shall be subject to the approval of the court. No action shall be brought on such bond more than one year after the absentee learned of such distribution nor in any event more than six years after the date of such distribution.

History: L. 1963, ch. 301, § 5; L. 1972, ch. 218, § 2; L. 1976, ch. 242, § 67; L. 1977, ch. 198, § 1; L. 2002, ch. 71, § 3; July 1.