

524.3-1203 SUMMARY PROCEEDINGS.

Subdivision 1. **Petition and payment.** Upon petition of an interested person, the court, with or without notice, may determine that the decedent had no estate, or that the property has been destroyed, abandoned, lost, or rendered valueless, and that no recovery has been had nor can be had for it, or if there is no property except property recovered for death by wrongful act, property that is exempt from all debts and charges in the probate court, or property that may be appropriated for the payment of the property selection as provided in section 524.2-403, the allowances to the spouse and children mentioned in section 524.2-404, and the expenses and claims provided in section 524.3-805, paragraph (a), clauses (1) to (6), inclusive, the personal representative by order of the court may pay the estate in the order named. The court may then, with or without notice, summarily determine the heirs, legatees, and devisees in its final decree or order of distribution assigning to them their share or part of the property with which the personal representative is charged.

Subd. 2. **Final decree or order.** If upon hearing of a petition for summary assignment or distribution, for special administration, or for any administration, or for the probate of a will, the court determines that there is no need for the appointment of a representative and that the administration should be closed summarily for the reason that all of the property in the estate is exempt from all debts and charges in the probate court, a final decree or order of distribution may be entered, with or without notice, assigning that property to the persons entitled to it under the terms of the will, or if there is no will, under the law of intestate succession in force at the time of the decedent's death.

Subd. 3. **Summary distribution.** Summary distribution may be made under this section in any proceeding of any real, personal, or other property in kind in reimbursement or payment of the property selection as provided in section 524.2-403, the allowances to the spouse and children mentioned in section 524.2-404, and the expenses and claims provided in section 524.3-805, paragraph (a), clauses (1) to (6), inclusive, in the order named, if the court is satisfied as to the propriety of the distribution and as to the valuation, based upon appraisal in the case of real estate other than homestead, of the property being assigned to exhaust the assets of the estate.

Subd. 4. **Personal representative.** Summary proceedings may be had with or without the appointment of a personal representative. In all summary proceedings in which no personal representative is appointed, the court may require the petitioner to file a corporate surety bond in an amount fixed and approved by the court. The condition of the bond must be that the petitioner has made a full, true, and correct disclosure of all the facts related in the petition and will perform the terms of the decree or order of distribution issued pursuant to the petition. Any interested person suffering damages as a result of misrepresentation or negligence of the petitioner in stating facts in the petition pursuant to which an improper decree or order of distribution is issued, or the terms of the decree or order of distribution are not performed by the petitioner as required, has a cause of action against the petitioner and the surety to recover those damages in the court in which the proceeding took place. That court has jurisdiction of the cause of action.

Subd. 5. **Exhaustion of estate.** In any summary, special, or other administration in which it appears that the estate will not be exhausted in payment of the priority items enumerated in subdivisions 1 to 4, the estate may nevertheless be summarily closed without further notice, and the property assigned to the proper persons, if the gross probate estate, exclusive of any exempt homestead as defined in section 524.2-402, and any exempt property as defined in section 524.2-403, does not exceed the value of \$100,000. If the closing and distribution of assets is made

pursuant to the terms of a will, no decree shall issue until a hearing has been held for formal probate of the will as provided in sections 524.3-401 to 524.3-413.

No summary closing of an estate shall be made to any distributee under this subdivision, unless a showing is made by the personal representative or the petitioner, that all property selected by and allowances to the spouse and children as provided in section 524.2-403 and the expenses and claims provided in section 524.3-805 have been paid, and provided, further, that a bond shall be filed by the personal representative or the petitioner, conditioned upon the fact that all such obligations have been paid and that all the facts shown on the petition are true, with sufficient surety approved by the court in an amount as may be fixed by the court to cover potential improper distributions. If a personal representative is appointed, the representative's bond shall be sufficient for such purpose unless an additional bond is ordered, and the sureties on the bond shall have the same obligations and liabilities as provided for sureties on a distribution bond.

In the event that an improper distribution or disbursement is made in a summary closing, in that not all of said obligations have been paid or that other facts as shown by the personal representative or the petitioner, are not true, resulting in damage to any party, the court may vacate its summary decree or closing order, and the petitioner or the personal representative, together with the surety, shall be liable for damages to any party determined to be injured thereby as herein provided. The personal representative, petitioner, or the surety, may seek reimbursement for damages so paid or incurred from any distributee or recipient of assets under summary decree or order, who shall be required to make a contribution to cover such damages upon a pro rata basis or as may be equitable to the extent of assets so received. The court is hereby granted complete and plenary jurisdiction of any and all such proceedings and may enter such orders and judgments as may be required to effectuate the purposes of this subdivision.

Any judgment rendered for damages or the recovery of assets in such proceedings shall be upon petition and only after hearing held thereon on 14 days' notice of hearing and a copy of petition served personally upon the personal representative and the surety and upon any distributee or recipient of assets where applicable. Any action for the recovery of money or damages under this subdivision is subject to the time and other limitations imposed by section 524.1-304.

History: 1974 c 442 art 3 s 524.3-1203; 1975 c 347 s 69; 1995 c 130 s 20; 2000 c 362 s 3; 2009 c 117 art 1 s 4