

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 16-1054.01 Richard Sweetman x4333

SENATE BILL 16-133

SENATE SPONSORSHIP

Tate, Johnston

HOUSE SPONSORSHIP

Pabon and Willett,

Senate Committees
Judiciary

House Committees
Judiciary

A BILL FOR AN ACT

101 CONCERNING THE TRANSFER OF PROPERTY RIGHTS UPON THE DEATH
102 OF A PERSON, AND, IN CONNECTION THEREWITH, CLARIFYING
103 DETERMINATION-OF-HEIRSHIP PROCEEDINGS IN PROBATE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

Under current law, a certificate of death, a verification of death document, or a certified copy thereof, of a person who is a joint tenant may be placed of record with the county clerk and recorder of the county in which the real property affected by the joint tenancy is located, together with a supplementary affidavit. The bill removes the requirement

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
2nd Reading Unamended
April 7, 2016

SENATE
3rd Reading Unamended
March 24, 2016

SENATE
Amended 2nd Reading
March 22, 2016

that the person who swears to and affirms the supplementary affidavit has no record interest in the real property.

The bill includes inherited individual retirement accounts and inherited Roth individual retirement accounts as property exempt from levy and sale under writ of attachment or writ of execution.

The bill amends provisions concerning determination-of-heirship proceedings, as follows:

- ! Clarifies the definition of "interested person" so that anyone affected by the ownership of property may commence a proceeding;
- ! Describes when an unprobated will may be used as part of a proceeding;
- ! Clarifies notice requirements; and
- ! Ensures that a judgment and decree will convey legal title as opposed to equitable title.

The bill enacts portions of section 5 of the "Uniform Power of Appointment Act", with amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 38-31-102, **amend**
3 (1) as follows:

4 **38-31-102. Proof of death - certificate of death available -**
5 **definitions.** (1) A certificate of death, a verification of death document,
6 or a certified copy thereof, of a person who is a joint tenant may be placed
7 of record with the county clerk and recorder of the county in which the
8 real property affected by the joint tenancy is located, together with a
9 supplementary affidavit. The supplementary affidavit, which shall be
10 properly sworn to or affirmed by a person of legal age having personal
11 knowledge of the facts, ~~and having no record interest in the real property,~~
12 shall MUST include the legal description of the real property and a
13 statement that the person referred to in the certificate was at the time of
14 death the owner of a joint tenancy interest in the real property IS THE
15 SAME PERSON WHO IS NAMED IN A SPECIFIC RECORDED DEED OR SIMILAR
16 INSTRUMENT CREATING THE JOINT TENANCY. When recorded, the original

1 certificate or verification document and supplementary affidavit, or
2 certified copies thereof, ~~shall~~ MUST be accepted in all courts of the state
3 of Colorado as prima facie proof of the death of the joint tenant. The
4 certificate or verification document and supplementary affidavit provided
5 for in this section may also be used to provide proof of the death of a life
6 tenant, THE OWNER UNDER A BENEFICIARY DEED, or any other person
7 whose record interest in real property terminates upon the death of such
8 person to the same extent as a joint tenant as provided in this section.

9

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10 **SECTION 2.** In Colorado Revised Statutes, 15-12-1301, **amend**
11 (1) and (2) as follows:

12 **15-12-1301. Definitions.** As used in this part 13, unless the
13 context otherwise requires:

14 (1) "Interested person" means an OWNER BY DESCENT OR
15 SUCCESSION, AN alleged heir or devisee of a decedent, ~~or~~ any OTHER
16 person claiming an OWNERSHIP interest derived from an OWNER BY
17 DESCENT OR SUCCESSION, OR AN alleged heir or devisee in any property
18 the descent or succession of which is to be determined pursuant to this
19 part 13, BUT EXCLUDING ANY PERSON HOLDING A NON-OWNERSHIP
20 INTEREST IN SUCH PROPERTY.

21 (2) "Owner by ~~inheritance~~ DESCENT OR SUCCESSION" means a
22 person in whom all or any part of the decedent's interest in the property
23 vests as a result of intestate or testate succession.

24 **SECTION 3.** In Colorado Revised Statutes, **amend** 15-12-1302
25 as follows:

26 **15-12-1302. Petition to determine heirship - devisees - interests**
27 **in property.** (1) When any person dies leaving an interest in real

1 property in this state, or dies domiciled in this state leaving an interest in
2 personal property wherever located, AND THERE IS NO PROBATE
3 PROCEEDING PRESENTLY PENDING FOR SUCH PERSON IN ANY JURISDICTION,
4 any interested person OR PERSON WHO MAY BE AFFECTED BY THE
5 OWNERSHIP OF SUCH PROPERTY may petition the court having jurisdiction
6 over probate matters in and for THE COUNTY IN WHICH THE REAL
7 PROPERTY OR SOME PORTION THEREOF IS SITUATED, OR, IF THE
8 PROCEEDING IS TO AFFECT AN INTEREST IN PERSONAL PROPERTY, the
9 county in which the decedent was domiciled or resided at the time of
10 death ~~or the county in which the property or some portion thereof is~~
11 ~~situated~~; to determine:

12 (a) The heirs of the decedent and the descent of all or any portion
13 of intestate property; or

14 (b) ~~to determine~~ The devisees of the decedent under a will
15 ~~previously admitted to probate in this or any other state~~ and the
16 succession of ALL OR ANY PORTION OF testate property.

17 (2) ~~The petition shall be in writing, signed, and verified and shall~~
18 ~~include the following:~~ THE PETITION MAY INCLUDE MORE THAN ONE
19 DECEDENT IF THEY ARE RELATED BY SUCCESSIVE INTERESTS IN THE
20 PROPERTY.

21 (a) ~~A statement that one year has passed since the date of death of~~
22 ~~the decedent;~~

23 (b) ~~A statement that administration of the decedent's estate has not~~
24 ~~been granted in this state, or if administration has been granted in this~~
25 ~~state the estate has been settled without determination of the descent or~~
26 ~~succession of all or a portion of the decedent's property;~~

27 (c) ~~A statement containing the name, age, and disability of any~~

1 interested person who is known to the petitioner to be a minor or under
2 legal disability;

3 (d) ~~A statement of the time and place of death of the decedent;~~

4 (e) ~~A statement of the last place of domicile or residence of the~~
5 ~~decedent;~~

6 (f) ~~A statement of whether the decedent died intestate or testate~~
7 ~~and, if testate, the name of the court which admitted the decedent's will~~
8 ~~to probate and a certified copy of the will and the order admitting the will~~
9 ~~to probate;~~

10 (g) ~~The names, addresses, and relationship of all interested~~
11 ~~persons, owners by inheritance, and all the heirs and devisees entitled to~~
12 ~~any part of the property;~~

13 (h) ~~A description of the decedent's interest in the property the~~
14 ~~descent or succession of which is to be determined through the petition;~~
15 ~~and~~

16 (i) ~~The name and address of the petitioner and a statement of the~~
17 ~~petitioner's interest in the property.~~

18 (3) ~~The petition may include more than one decedent if related by~~
19 ~~successive interests in the property.~~ THE PETITION MUST BE IN WRITING,
20 SIGNED, AND VERIFIED, AND IT MUST INCLUDE THE FOLLOWING:

21 (a) THE NAME AND ADDRESS OF THE PETITIONER;

22 (b) A STATEMENT OF THE INTEREST OF THE PETITIONER;

23 (c) A DESCRIPTION OF THE PROPERTY, INCLUDING A LEGAL
24 DESCRIPTION IF THE PROPERTY IS REAL PROPERTY;

25 (d) AS TO EACH DECEDENT ADDRESSED IN THE PETITION:

26 (I) THE NAME OF THE DECEDENT;

27 (II) THE AGE OF THE DECEDENT AT THE DECEDENT'S DEATH;

1 (III) A STATEMENT OF THE DATE AND PLACE OF THE DECEDENT'S
2 DEATH;

3 (IV) A STATEMENT THAT ONE YEAR HAS PASSED SINCE THE
4 DECEDENT'S DATE OF DEATH;

5 (V) A STATEMENT THAT EITHER ADMINISTRATION OF THE
6 DECEDENT'S ESTATE HAS NOT BEEN GRANTED OR COMMENCED IN ANY
7 JURISDICTION, OR, IF ADMINISTRATION HAS BEEN GRANTED OR
8 COMMENCED IN ANY JURISDICTION, THE ESTATE HAS BEEN SETTLED
9 WITHOUT DETERMINATION OF THE DESCENT OR SUCCESSION OF ALL OR A
10 PORTION OF THE DECEDENT'S PROPERTY;

11 (VI) A STATEMENT AS TO THE COUNTY AND STATE OF THE
12 DECEDENT'S LAST PLACE OF DOMICILE OR RESIDENCE;

13 (VII) A STATEMENT OF WHETHER THE DECEDENT DIED INTESTATE
14 OR TESTATE, AND, IF TESTATE, THE ADDITIONAL INFORMATION REQUIRED
15 BY SUBSECTION (4) OF THIS SECTION;

16 (VIII) THE NAMES, ADDRESSES, AND RELATIONSHIPS OF ALL
17 INTERESTED PERSONS;

18 (IX) A STATEMENT CONTAINING THE AGE AND DISABILITY OF ANY
19 INTERESTED PERSON WHO IS KNOWN TO THE PETITIONER TO BE A MINOR OR
20 UNDER LEGAL DISABILITY;

21 (X) A DESCRIPTION OF THE DECEDENT'S INTEREST IN THE
22 PROPERTY THE DESCENT OR SUCCESSION OF WHICH IS TO BE DETERMINED
23 THROUGH THE PETITION, WHICH DESCRIPTION INCLUDES PROPERTY
24 LOCATED IN THE COUNTY WHERE THE PETITION IS FILED AND REAL
25 PROPERTY LOCATED IN ANY OTHER COLORADO COUNTY;

26 (XI) A DESCRIPTION OF THE INTERESTS HELD BY ALL OWNERS BY
27 DESCENT OR SUCCESSION FOR THE DECEDENT IN THE PROPERTY; AND

1 (XII) A STATEMENT THAT THE RELIEF SOUGHT BY THE PETITION IS
2 CONSISTENT WITH ANY PREVIOUS ADMINISTRATION OF THE DECEDENT'S
3 PROPERTY; AND

4 (e) IF THE NAME OR ADDRESS OF ANY INTERESTED PERSON IS
5 UNKNOWN, A STATEMENT DETAILING THE REASONABLE, DILIGENT EFFORTS
6 MADE TO DETERMINE THE NAME OR ADDRESS OF THE INTERESTED PERSON.

7 (4) ~~Upon filing of the petition, the court shall set a time and date~~
8 ~~for hearing the petition.~~ IF THE DECEDENT DIED TESTATE, ONE OF THE
9 FOLLOWING CONDITIONS MUST BE SATISFIED:

10 (a) IF THE DECEDENT'S WILL HAS BEEN PREVIOUSLY ADMITTED TO
11 PROBATE, THE PETITION MUST INCLUDE THE NAME OF THE COURT THAT
12 ADMITTED THE WILL TO PROBATE, THE CASE NUMBER, AND THE DATE UPON
13 WHICH THE WILL WAS ADMITTED TO PROBATE, AND THE PETITIONER SHALL
14 PROVIDE A CERTIFIED COPY OF THE WILL AND THE ORDER ADMITTING THE
15 WILL TO PROBATE; OR

16 (b) IF THE ADMISSIBILITY OF THE DECEDENT'S WILL TO PROBATE
17 HAS NOT BEEN PREVIOUSLY DETERMINED BY A COURT, THE PETITION MUST
18 INCLUDE A STATEMENT THAT THE ORIGINAL WILL HAS BEEN LODGED WITH
19 A COURT, THAT THE PETITIONER BELIEVES THE WILL TO BE THE
20 DECEDENT'S LAST WILL, THAT THE WILL WAS VALIDLY EXECUTED, AND
21 THAT THE PETITIONER IS UNAWARE OF ANY INSTRUMENT REVOKING THE
22 WILL OR OF ANY PRIOR WILL RELATING TO THE PROPERTY THAT HAS NOT
23 BEEN EXPRESSLY REVOKED BY A LATER INSTRUMENT, AND THE PETITIONER
24 SHALL PROVIDE A CERTIFIED COPY OF SUCH WILL OR, IF CERTIFICATION IS
25 NOT POSSIBLE, A COPY OF SUCH WILL AND A STATEMENT CONCERNING THE
26 ABSENT CERTIFICATION; OR

27 (c) IF THE ADMISSIBILITY OF THE DECEDENT'S WILL TO PROBATE

1 HAS NOT BEEN PREVIOUSLY DETERMINED BY A COURT AND THE ORIGINAL
2 WILL HAS NOT BEEN LODGED WITH A COURT, THE PROVISIONS OF SECTION
3 15-12-402 (3) APPLY AND THE PETITION MUST INCLUDE A STATEMENT
4 THAT THE ORIGINAL WILL IS LOST, DESTROYED, OR OTHERWISE
5 UNAVAILABLE; THAT THE WILL WAS VALIDLY EXECUTED; THAT THE
6 PETITIONER BELIEVES THE WILL TO BE THE DECEDENT'S LAST WILL; AND
7 THAT THE PETITIONER IS UNAWARE OF ANY INSTRUMENT REVOKING THE
8 WILL OR OF ANY PRIOR WILL RELATING TO THE PROPERTY THAT HAS NOT
9 BEEN EXPRESSLY REVOKED BY A LATER INSTRUMENT, AND THE PETITIONER
10 SHALL PROVIDE A COPY OF THE WILL OR OTHERWISE ESTABLISH THE
11 CONTENTS OF THE WILL TO THE SATISFACTION OF THE COURT.

12 (5) UPON FILING OF THE PETITION, THE COURT SHALL SET A TIME
13 AND DATE FOR HEARING THE PETITION.

14 **SECTION 4.** In Colorado Revised Statutes, **amend** 15-12-1303
15 as follows:

16 **15-12-1303. Hearing - notice - service.** (1) The petitioner shall
17 prepare a notice ~~of the filing of the petition which notice shall include~~
18 THAT IDENTIFIES THE PETITION AND INCLUDES the name of ~~the~~ EACH
19 decedent; THE NAME OF EACH INTERESTED PERSON; a description of the
20 property set forth in the petition, ~~the name of each interested person, and~~
21 ~~the name of each owner by inheritance. The notice may be served by~~
22 ~~personal service or by mailing a copy thereof, postage prepaid, addressed~~
23 ~~to the person at the address given and shall be directed to the interested~~
24 ~~persons and owners by inheritance set forth in the petition.~~ INCLUDING A
25 LEGAL DESCRIPTION IF THE PROPERTY IS REAL PROPERTY; AND THE TIME
26 AND PLACE OF THE HEARING ON THE PETITION. The notice ~~shall~~ MUST
27 direct all interested persons ~~and owners by inheritance~~ to appear and

1 ~~answer~~ OBJECT TO the petition ~~within twenty-one days after service of the~~
2 ~~notice if personal service occurs within the state of Colorado or thirty-five~~
3 ~~days after service if personal service occurs outside the state of Colorado~~
4 ~~or service is had by mail or by publication~~ ON OR BEFORE THE HEARING
5 DATE AND TIME SPECIFIED IN THE NOTICE. The notice ~~shall~~ MUST further
6 ~~provide~~ DIRECT that all objections to the petition must be filed in writing
7 with the court AND BE SERVED ON THE PETITIONER, and THAT the filing fee
8 MUST BE paid ~~within the time required for answering the petition and that~~
9 ON OR BEFORE THE HEARING DATE AND TIME SPECIFIED IN THE NOTICE.
10 THE NOTICE MUST SET FORTH THAT the hearing ~~shall~~ WILL be limited to
11 ~~the objections timely filed and the parties answering the petition in a~~
12 ~~timely manner. The notice shall set forth the time and place of the hearing~~
13 ~~on the petition~~ AND SERVED AND THAT, IF NO OBJECTIONS ARE TIMELY
14 FILED AND SERVED, THEN THE COURT MAY ENTER A DECREE WITHOUT A
15 HEARING.

16 (2) ~~The notice shall be published once a week for three~~
17 ~~consecutive weeks, as defined in section 15-10-401 (4), in a newspaper~~
18 ~~of general circulation in the county where the proceeding is filed, or if~~
19 ~~there is no such newspaper in such county, then in some newspaper of~~
20 ~~general circulation in an adjoining Colorado county. Service by~~
21 ~~publication shall be complete on the last day of publication. Prior to the~~
22 ~~hearing the petitioner shall file with the court the publisher's affidavit of~~
23 ~~publication stating the dates of publication. The petition itself need not be~~
24 ~~published~~ THE NOTICE MUST BE SERVED ON EACH INTERESTED PERSON
25 NAMED IN THE PETITION WHOSE ADDRESS IS SHOWN ON THE PETITION AND
26 WHO DOES NOT JOIN IN THE PETITION; OR WHO DOES NOT CONSENT TO THE
27 GRANTING OF THE PETITION OR ENTER A PERSONAL APPEARANCE; OR WHO

1 DOES NOT ADMIT, ACCEPT, OR WAIVE SERVICE. SERVICE MAY BE BY
2 PERSONAL SERVICE OR BY MAILING. IF SERVICE IS BY PERSONAL SERVICE
3 WITHIN THE STATE, SERVICE MUST BE COMPLETED AT LEAST TWENTY-ONE
4 DAYS PRIOR TO THE HEARING. IF SERVICE IS BY PERSONAL SERVICE
5 OUTSIDE THE STATE OR BY MAILING A COPY THEREOF, POSTAGE PREPAID,
6 ADDRESSED TO THE ADDRESS SHOWN ON THE PETITION EITHER WITHIN OR
7 OUTSIDE THE STATE, SERVICE MUST BE COMPLETED AT LEAST THIRTY-FIVE
8 DAYS PRIOR TO THE HEARING. THE PETITIONER SHALL FILE A RETURN OF
9 SERVICE FOR EACH INSTANCE OF PERSONAL SERVICE AND SHALL MAKE
10 AND FILE A CERTIFICATE OF MAILING STATING THE NAME OF THE PERSON
11 TO WHOM THE COPY WAS MAILED, THE ADDRESS TO WHICH THE COPY WAS
12 MAILED, THAT IT WAS MAILED POSTAGE PREPAID, AND THE DATE OF
13 MAILING. A COPY OF THE PETITION MUST BE SERVED WITH THE NOTICE.

14 (3) ~~The notice, in addition to publication, shall be served on each~~
15 ~~person named in the petition whose address is shown on the petition and~~
16 ~~who does not join in the petition, or does not consent to the granting of~~
17 ~~the petition or enter a personal appearance, or does not admit, accept, or~~
18 ~~waive service. If service is by personal service within the state, service~~
19 ~~must be completed at least twenty-one days prior to the hearing. If service~~
20 ~~is by personal service outside the state or by mail within or outside the~~
21 ~~state or by publication, service must be completed at least thirty-five days~~
22 ~~prior to the hearing. The petitioner shall file a return of service or shall~~
23 ~~make and file a certificate of mailing, stating the name of the person to~~
24 ~~whom the copy was mailed and the address to which mailed, that it was~~
25 ~~mailed, postage prepaid, and the date of mailing. A copy of the petition~~
26 ~~shall be served with the notice~~ THE PETITIONER SHALL ALSO CAUSE THE
27 NOTICE TO BE PUBLISHED ONCE A WEEK FOR THREE CONSECUTIVE WEEKS,

1 AS DEFINED IN SECTION 15-10-401 (4), IN A NEWSPAPER OF GENERAL
2 CIRCULATION IN THE COUNTY IN WHICH THE PROCEEDING IS FILED, OR IF
3 THERE IS NO SUCH NEWSPAPER IN THE COUNTY, THEN IN A NEWSPAPER OF
4 GENERAL CIRCULATION IN AN ADJOINING COLORADO COUNTY.
5 ADDITIONALLY, SUCH NOTICE MUST ALSO BE PUBLISHED ONCE A WEEK FOR
6 THREE CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION
7 IN ANY OTHER COUNTY IN WHICH REAL PROPERTY THAT IS SUBJECT TO THE
8 PROCEEDING IS LOCATED, OR IF THERE IS NO SUCH NEWSPAPER IN SUCH
9 COUNTY, THEN IN A NEWSPAPER OF GENERAL CIRCULATION IN AN
10 ADJOINING COLORADO COUNTY. SERVICE BY PUBLICATION IS COMPLETE
11 ON THE LAST DAY OF PUBLICATION, WHICH MUST OCCUR ON OR BEFORE
12 THIRTY-FIVE DAYS BEFORE THE HEARING. THE PETITIONER SHALL FILE
13 WITH THE COURT THE PUBLISHER'S AFFIDAVIT OR AFFIDAVITS OF
14 PUBLICATION STATING THE DATES OF PUBLICATION.

15 **SECTION 5.** In Colorado Revised Statutes, **amend** 15-12-1304
16 as follows:

17 **15-12-1304. Appearance - hearing.** Any interested person or
18 ~~owner by inheritance~~ PERSON WHO MAY BE AFFECTED BY THE OWNERSHIP
19 OF THE DECEDENT'S INTEREST IN THE PROPERTY, THE DESCENT OR
20 SUCCESSION OF WHICH IS TO BE DETERMINED IN THE PETITION, may appear
21 and ~~answer such petition~~ OBJECT and establish any proper defense to the
22 petition or any part thereof, or assert or protect any interest the person
23 may claim. ~~at any time within the time for filing an answer as set forth in~~
24 ~~the notice. After the expiration of the time periods allowed for appearance~~
25 ~~and answer,~~ AN APPEARANCE AND OBJECTION MUST BE PRESENTED IN
26 WRITING WITHIN THE TIME PERIOD FOR FILING AN OBJECTION AS SET FORTH
27 IN THE NOTICE; EXCEPT THAT, FOR GOOD CAUSE, THE COURT MAY ALLOW

1 AN ENTRY OF APPEARANCE AND OBJECTION BY AN INTERESTED PERSON OR
2 PERSON WHO MAY BE AFFECTED BY THE OWNERSHIP OF THE PROPERTY AT
3 ANY TIME PRIOR TO THE ENTRY OF THE COURT'S JUDGMENT AND DECREE.
4 IF AN INTERESTED PERSON OR PERSON WHO MAY BE AFFECTED BY THE
5 OWNERSHIP OF THE PROPERTY APPEARS AND FILES A TIMELY OBJECTION,
6 the court shall proceed with the hearing on the petition; ~~Any person who~~
7 ~~objects to the relief prayed for in the petition must present all such~~
8 ~~objections in writing within the time period for filing an answer; except~~
9 ~~that the court, for good cause, may allow an entry of appearance by any~~
10 ~~interested person at any time prior to the entry of the court's judgment and~~
11 ~~decree.~~ EXCEPT THAT THE COURT MAY CONTINUE THE HEARING IN ITS
12 DISCRETION OR DIRECT SUCH FURTHER PROCEEDING AS THE COURT MAY
13 DETERMINE. OTHERWISE, IF AFTER PROPER SERVICE PURSUANT TO SECTION
14 15-12-1303 THERE ARE NO OBJECTIONS FILED TO THE PETITION, THEN THE
15 COURT MAY ENTER A JUDGMENT AND DECREE PURSUANT TO THIS PART 13
16 WITHOUT A HEARING.

17 **SECTION 6.** In Colorado Revised Statutes, **amend** 15-12-1305
18 as follows:

19 **15-12-1305. Judgment.** The court shall determine the standing of
20 the petitioner to bring the action; the heirs and devisees of the decedent;
21 the owners by ~~inheritance~~ DESCENT OR SUCCESSION of the property; a
22 description of the property, INCLUDING A LEGAL DESCRIPTION IF THE
23 PROPERTY IS REAL PROPERTY; and any other pertinent facts, and shall
24 enter judgment on the petition. ~~If after proper service pursuant to section~~
25 ~~15-12-1303 there are no objections or answers filed to the petition, then~~
26 ~~the court may enter a decree pursuant to this part 13 without a hearing.~~

27 **SECTION 7.** In Colorado Revised Statutes, **amend** 15-12-1306

1 as follows:

2 **15-12-1306. Decree - conclusive and when - reopening.** A
3 decree entered pursuant to this part 13 ~~shall be~~ IS conclusive as to the
4 rights of heirs or devisees in the property described in the order from the
5 date of its entry. IF SUCH A DECREE AFFECTS TITLE TO REAL PROPERTY, A
6 CERTIFIED COPY OF THE DECREE MUST BE RECORDED AND INDEXED IN THE
7 OFFICE OF THE COUNTY CLERK AND RECORDER OF EACH COUNTY IN WHICH
8 REAL PROPERTY IS LOCATED IN LIKE MANNER AND IN LIKE EFFECT AS IF IT
9 WERE A DEED OF CONVEYANCE FROM THE DECEDENT TO THE HEIRS OR
10 DEVISEES. Any person claiming to be an heir or devisee, or the grantee or
11 successor in interest of an heir or devisee, not served with notice by
12 personal service or by mail, and who did not admit, accept, or waive
13 service, or consent to the granting of the petition or enter a personal
14 appearance, may petition to reopen the proceeding and modify the decree
15 within one year after the entry thereof, but not thereafter; except that no
16 such modification of the decree ~~shall~~ MAY serve to impair the rights of
17 any person who, in reliance upon such decree, in good faith, for value,
18 and without notice, purchased property or acquired a lien upon property.
19 NOTWITHSTANDING ANY PROVISION OF THIS PART 13 TO THE CONTRARY,
20 THE ADMISSION OF A PREVIOUSLY UNPROBATED WILL AS PART OF A
21 PROCEEDING UNDER THIS PART 13 APPLIES ONLY TO THE DECEDENT'S
22 PARTICULAR PROPERTY INTERESTS DESCRIBED IN THE PETITION, IN
23 ACCORDANCE WITH SECTION 15-12-1302 (3) (d) (X), FOR THE DECEDENT.

24 **SECTION 8. Inclusion of official comments.** The revisor of
25 _____ statutes shall include, as nonstatutory matter, following each
26 section of the "Colorado Uniform Powers of Appointment Act", article
27 2.5 of title 15, C.R.S., the full text of the official comment to each such

1 section contained in the official volume containing the "Uniform Powers
2 of Appointment Act" issued by the Uniform Law Commission, with any
3 changes in the official comments to correspond to Colorado changes in
4 the uniform act. The revisor shall prepare the comments for approval by
5 the committee on legal services.

6 **SECTION 9. Act subject to petition - effective date.** This act
7 takes effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part will not take effect
13 unless approved by the people at the general election to be held in
14 November 2016 and, in such case, will take effect on the date of the
15 official declaration of the vote thereon by the governor.