

**SOUTH CAROLINA  
PROBATE CODE  
REVISIONS**

**ARTICLE 3,  
SECTION 5 TO SECTION 8  
REVISIONS EFFECTIVE JANUARY 1, 2014**

**SC Probate Code Revisions**

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## Changes in Article 3, Section 5

- 3-501            These sections of the Probate Code Deal with  
 3-502            Administration under Part 5. The Probate Code  
 3-503            Revision Bill made no material changes to these  
 3-504            sections.  
 3-505

## Changes in Article 3, Section 5 Language Changes

- 3-501            Administration under Part 5 [Sections 62-3-501 et seq.] is a  
 single in rem proceeding to secure complete administration and  
 settlement of a decedent's estate under the continuing authority  
 of the court which extends until entry of an order approving  
 distribution of the estate and discharging the personal  
 representative or other order terminating the proceeding. A  
 personal representative under Part 5 [Sections 62-3-501 et seq.]  
 is responsible to the court, as well as to the  
 interested ~~parties~~ **persons**, and is subject to directions  
 concerning the estate made by the court on its own motion or on  
 the motion of any interested party. Except as otherwise provided  
 in this part, or as otherwise ordered by the court, a personal  
 representative under Part 5 [Sections 62-3-501 et seq.] has the  
 same duties and powers as a personal representative who is not  
 subject to administration under Part 5 [Sections 62-3-501 et  
 seq.]

## Changes in Article 3, Section 6

### Bond

- 3-605
- Requires person demanding bond to have interest over \$5,000
  - Probate Judges given more discretion in waiving bond

- 3-607      Technical Correction Only

### Termination of Appointment

- 3-609      ▪ Appointment of Guardian terminates appointment  
 3-610      ▪ Attorney for PR relieved of duties if Guardian appointed for PR  
 3-611      ▪ Attorney for PR is relieved of duties to court if PR is Removed

- 3-614      Special Administrator

- Broader authority even if appointed informally

- 3-619      Executor de Son Tort

- 3-620      ▪ Reworded language regarding the rights and actions against  
 3-621      person possessing property of an estate

## Language Change §62-3-605

- Any person apparently having an interest in the estate worth in excess of **one five** thousand dollars, or any creditor having a claim in excess of **one five** thousand dollars, may make a written demand that a personal representative give bond. The demand must be filed with the court and a copy mailed to the personal representative, if appointment and qualification have occurred. Thereupon, bond is required in an amount determined by the court as sufficient to protect the interest of the person or creditor demanding bond, but the requirement ceases if the person or creditor demanding bond ceases to have an interest in the estate worth in excess of **one five** thousand dollars or a claim in excess of **one five** thousand dollars. After he has received notice and until the filing of the bond or cessation of the requirement of bond, the personal representative shall refrain from exercising any powers of his office except as necessary to preserve the estate or to pay the person or creditor demanding bond. **Failure of the personal representative to meet a requirement of bond by giving suitable bond within thirty days after receipt of notice is cause for his removal and appointment of a successor personal representative unless good cause is shown for the delay.**

## Language Change §62-3-607

- (a) Upon application of any interested person who appears to have an interest in the estate, the court by temporary order may restrain a personal representative from performing specified acts of administration, disbursement or distribution, or exercise of any powers or discharge of any duties of his office, or make any other order to secure proper performance of his duty, if it appears to the court that the personal representative otherwise may take some action which would jeopardize unreasonably the interest of the applicant or of some other interested person. Persons with whom the personal representative may transact business may be made parties.
- (b) The matter shall be set for hearing within ten days or at such other times as the parties may agree. Notice as the court directs shall be given to the personal representative and his attorney of record, if any, and to any other parties named defendant in the petition application.

## Language Change §62-3-609

- The death of a personal representative or the appointment of a conservator for the estate or guardian for the person of a personal representative, terminates his appointment. Until appointment and qualification of a successor or special representative to replace the deceased or protected representative, the representative of the estate of the deceased or protected personal representative, if any, has the duty to protect the estate possessed and being administered by his decedent or ward at the time his appointment terminates, has the power to perform acts necessary for protection, and shall account for and deliver the estate assets to a successor or special personal representative upon his appointment and qualification.

## Language Change §62-3-610

- (a) Unless otherwise provided, an order closing an estate as provided in Section 62-3-1001 terminates an appointment of a personal representative **and relieves the personal representative's attorney of record of any further duties to the court.**
- (b) A personal representative may resign his position by filing a written statement of resignation with the court and providing twenty days' written notice to the persons known to be interested in the estate. If no one applies or petitions for appointment of a successor representative within the time indicated in the notice, the filed statement of resignation is ineffective as a termination of appointment and in any event is effective only upon the appointment and qualification of a successor representative and delivery of the assets to him. **When the resignation is effective, the personal representative's attorney of record shall be relieved of any further duties to the court.**

## Language Change §62-3-611(c)

- (c) **The termination of appointment under this section shall relieve the personal representative's attorney of record of any further duties to the court.**

## Language Change §62-3-614(1)

- A special administrator may be appointed:
- (1) informally by the court on the application of an interested person when necessary:
  - (a) to protect the estate of a decedent prior to the appointment of a general personal representative or if a prior appointment has been terminated as provided in Section 62-3-609; ~~or~~
  - (b) for a creditor of the decedent's estate to institute any proceeding under Section 62-3-803(e); or
  - **(c) to take appropriate actions involving estate assets.**

## Language Change §62-3-614(2) No Change to Part 2

- (2) in a formal proceeding by order of the court on the petition of any interested person and finding, after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration including its administration in circumstances where a general personal representative cannot or should not act. If it appears to the court that an emergency exists, appointment may be ordered without notice.

## Language Change §62-3-619

### All New Language

- Any person who obtains, receives, or possesses property of whatever kind, belonging to the decedent, by means of fraud or without paying valuable consideration equivalent to the value of the property, shall be charged and chargeable as executor of his own wrong (executor de son tort) with respect to the goods and debts. The value of the property is charged to the executor de son tort. Likewise, the value of the property shall be deducted from any distribution or payment of any claim or commission to which the executor de son tort is entitled from the estate.

## Language Change §62-3-620

### All New Language

- Acting sua sponte or upon the petition of any interested person, the probate judge of the county in which a deceased person was domiciled at the time of his death may order the executor de son tort to account for the property in his possession. Upon a finding that the property has been converted, wasted or otherwise damaged through improper interference, the court may assess damages including attorney's fees and costs in the amount determined by the court not to exceed the value of the property charged to the executor de son tort.

## Language Change §62-3-621

### All New Language

- Every personal representative of any person who, as executor in his own wrong, shall waste or convert any goods, chattels, estate, or assets of any person deceased to his own use shall be liable and chargeable in the same manner as his testator or intestate would have been if he had been living. The rights of the probate court and interested parties set forth in Section 62-3-620 shall survive the death of the executor de son tort.

## Changes in Article 3 –Section 7

- Pre-Appointment
- 3-701      ■ Named PR can protect assets before appointment
- 3-704      ■ Duties of PR
- Must allow or disallow claims
- PR can be in contempt for violation; Probate court can impose fine, sentence or other penalty
- Inventory and Appraisal
- 3-706      ■ Only requires reporting of probate property
- 3-707      ■ Interested persons can demand list of non-probate property
- 3-708      ■ Deletes requirement that appraisers sign
- Unchanged information restated on supplemental or amended form

## Changes in Article 3 – Sec. 7 Cont.

### 3-711 Sale of Property

- PR can sell personal property without authority or court order if under \$10,000
- Application required

### 3-715 PR's Powers

- Access decedent's electronic files, passwords

### Delegation Among co- PRs

- ### 3-717
- Written delegation must be filed with court

## Language Change §62-3-701

- The duties and powers of a personal representative commence upon his appointment. The powers of a personal representative relate back in time to give acts by the person appointed which are beneficial to the estate occurring prior to appointment the same effect as those occurring thereafter. Prior to appointment, a person named ~~executor~~ personal representative in a will may protect property of the decedent's estate and carry out written instructions of the decedent relating to his body, funeral, and burial arrangements. A personal representative may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a personal representative.

### Language Change §62-3-704(c) – (e)

- (c) Upon the expiration of the relevant period, as set forth in Section 62-3-807, the personal representative shall proceed to **allow or disallow claims and** pay the claims allowed against the estate, as provided in Section 62-3-807.
- (d) Upon the expiration of the relevant period, as set forth in Section 62-3-1001, the personal representative shall file the ~~account~~ **accounting**, proposal for distribution, petition for settlement of the estate, proofs required by Section 62-3-1001, and proof of publication of notice to creditors.
- (e) **Within the time set forth in Section 62-3-806(a), serve upon all claimants a notice stating that their claim has been allowed or disallowed pursuant to that section.**

### Language Change §62-3-704(g)

- ~~(f)(g)~~ **If a personal representative or trustee neglects or refuses to comply with any provision of Section 62-3-706 he is liable to a penalty of one thousand dollars for each separate failure or neglect and the official bond of the personal representative or trustee is liable therefor. This penalty must be recovered by the South Carolina Department of Revenue for the use of the State and an action for the recovery thereof may be brought by the Department of Revenue in any court of competent jurisdiction and, upon collection, must be paid into the state treasury. But the department, upon good cause shown, may, in its discretion, excuse the penalty or any part thereof he is subject to the contempt power of the court. The probate court, after a hearing and any notice the court may require, may issue its order imposing the sentence, fine, or penalty as it sees fit and remove the personal representative and appoint another personal representative.**

## Language Change §62-3-706 (a)

- (A) Within ninety days after his appointment, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall:
  - (1) prepare an inventory **and appraisal** of probate property owned by the decedent at the time of his death, ~~together with such other information as may be required by the South Carolina~~ Department of Revenue, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, and the type and amount of any encumbrance that may exist with reference to any item;
  - (2) file the original of the inventory **and appraisal** with the court; and
  - (3) mail a copy **of the filed inventory and appraisal** to interested persons who request it **have filed a demand for notice of the filing of the inventory pursuant to Section 62-3-204.**

## Language Change §62-3-706 (b)

### New Language

- (B) Within ninety days of a demand by an interested person for an inventory of nonprobate property, the personal representative shall:
  - (1) prepare a list of the property owned by the decedent at the time of his death that is not probate property, so far as is known to the personal representative which may, at the discretion of the personal representative, include the value and nature of the decedent's interest in the property on the date of the decedent's death;
  - (2) mail a copy of the list to each interested person who has requested the list; and
  - (3) file proof of the mailing with the probate court.

## Language Change §62-3-706 (C)

- (C) The court, upon application of the personal representative, may extend the time for filing or making the either the inventory and appraisal or list of nonprobate property provided for in this section.

## Language Change §62-3-707

- Section 62-3-707. The personal representative may obtain a qualified and disinterested appraiser to assist him in ascertaining the fair market value as of the date of the decedent's death of any asset ~~the value of which may be subject to reasonable doubt.~~ Different persons may be employed to appraise different kinds of assets included in the estate. The names and addresses of any appraiser must be indicated on the inventory and appraisal or by supplemental inventory and appraisal with the item or items he appraised. ~~Each appraiser shall execute the inventory, stating thereon the item or items he appraised.~~ On motion application of any interested person, the court may require that one or more qualified appraisers be appointed to ascertain the fair market value of all or any part of the estate or may approve one or more qualified appraisers.

## Language Change §62-3-708

- If any property not included in the original inventory **and appraisal** comes to the knowledge of a personal representative or if the personal representative learns that the value or description indicated in the original inventory for any item is erroneous or misleading, he shall **make submit a supplementary, amended or corrected** inventory or appraisal showing the market value as of the date of the decedent's death of the new item or the revised market value or descriptions, and the appraisers or other data relied upon, if any, and **file it with the court, restating the unchanged information from the original inventory and appraisal** and furnish copies ~~thereof or information thereof~~ to persons who receive the original inventory, and to **interested persons interested in who have requested or demanded the new information.**

## Language Change §62-3-711(a) & (b)

- (a) Until termination of his appointment or unless otherwise provided in Section 62-3-910, a personal representative has the same power over the title to property of the estate that an absolute owner would have, in trust however, for the benefit of the creditors and others interested in the estate. Except as otherwise provided in subsection (b), this power may be exercised without notice, hearing, or order of court.
- (b) Except where the will of the decedent authorizes to the contrary, a personal representative may not sell real property of the estate except as authorized pursuant to the ~~procedure~~ **procedures** described in **Sections 62-3-911 or Section Sections 62-3-1301 et seq.** and shall refrain from selling tangible or intangible personal property of the estate (other than securities regularly traded on national or regional exchanges and produce, grain, fiber, tobacco, or other merchandise of the estate for which market values are readily ascertainable) having an aggregate value of ~~five ten~~ thousand dollars or more without prior order of the court **which may be issued upon application of the personal representative and after notice or consent as the court deems appropriate.**

### Language Change §62-3-711(c)

- (c) If the will of a decedent devises real property to a personal representative or authorizes a personal representative to sell real property (the title to which was not devised to the personal representative), then subject to Section 62-3-713, the personal representative, acting in trust for the benefit of the creditors and ~~others~~ **other interested persons** in the estate, may execute a deed in favor of a purchaser for value, who takes title to the real property in accordance with the provisions of Section ~~62-3-910(b)~~**(B)**.

### Language Change §62-3-715(26) New Language Added

- (26) The personal representative has the power to access the decedent's files and accounts in electronic format, including the power to obtain the decedent's user names and passwords.

## Language Change §62-3-717

- If two or more persons are appointed corepresentatives and unless the will provides otherwise, the concurrence of all is required on all acts connected with the administration and distribution of the estate. This restriction does not apply when any corepresentative receives and receipts for property due the estate, when the concurrence of all cannot readily be obtained in the time reasonably available for emergency action necessary to preserve the estate, ~~or~~. **When a corepresentative has been delegated to act for the others, written notice of the delegation signed by the others and setting forth the duties delegated must be filed with the court.** Persons dealing with a corepresentative if actually unaware that another has been appointed to serve with him or if advised by the personal representative with whom they deal that he has authority to act alone for any of the reasons mentioned herein, are as fully protected as if the persons with whom they dealt had been the sole personal representative.

## Changes in Article 3 – Section 8

- 3-801 **Notice to Creditors**
- If written notice to creditors given, claim must be filed within earlier of 60 days from notice or 1 year from date of death
  - PR not required to notify creditors (publication or written notice) if PR is appointed after 1 year from date of death.
- 3-803 Language modified to clarify intent.
- 3-804 **Presentation of Claims**
- Claim must be filed with the court to be timely filed
  - Creditors seeking appointment must attach claim to petition
  - Claimant who files action must notify probate court that action is pending
- 3-805 **Priority of Claims**
- Debts & taxes with priority under federal law moved to #2
  - Personal care expenses added to last illness expenses
  - Medicaid payback included with debts and taxes with SC priority
  - Person advancing funds or paying claims has same priority as claim

## Changes in Article 3 - Sec. 8 Cont.

3-806

### Allowance/Disallowance of Claims

- PR must allow or disallow claim within later of 60 days from filing of claim or 14 months from death
- Allowed claims bear interest 14 months after date of death
- Allowance of claim does not equate to payment
- Claimant obtaining judgment must file certified copy of judgment with probate court

3-807

### Payment of Claims

- PR must pay allowed claims no later than 14 months from date of death

## Language Change §62-3-801(a) – (c)

- (a) Unless notice has already been given under this section, a personal representative upon his appointment ~~shall~~ **must** publish a notice to creditors once a week for three successive weeks in a newspaper of general circulation in the county announcing his appointment and address and notifying creditors of the estate to present their claims within eight months after the date of the first publication of the notice or be forever barred.
- (b) A personal representative may give written notice by mail or other delivery to any creditor, notifying the creditor to present his claim within ~~eight months from one year of the published notice as provided in (a) above, decedent's death,~~ or within sixty days from the mailing or other delivery of such notice, whichever is ~~later~~ **earlier**, or be forever barred. Written notice is the notice described in (a) above or a similar notice.
- (c) The personal representative is not liable to any creditor or to any successor of the decedent for giving or failing to give notice under this section.

## Language Change §62-3-801(d) New Language

- (d) Notwithstanding subsections (a) and (b), notice to creditors under this section is not required if a personal representative is not appointed to administer the decedent's estate during the one year period following the death of the decedent.

## Language Change §62-3-803(a)

- Section 62-3-803. (a) All claims against a decedent's estate which arose before the death of the decedent, including claims of the State and any political subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by ~~either another~~ another statute of limitations; or nonclaim statute; are barred against the estate, the personal representative, ~~and the decedent's heirs and devisees, and nonprobate transferees~~ of the decedent; unless presented within the earlier of the following dates:
  - (1) one year after the decedent's death; or
  - (2) ~~within~~ the time provided by Section 62-3-801(b) for creditors who are given actual notice, and within the time provided in Section 62-3-801(a) for all creditors barred by publication; ~~provided, claims.~~

### Language Change §62-3-803(a) – (b)

- (a) All claims against a decedent's estate which arose before the death of the decedent, including claims of the State and any political subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by ~~either another~~ statute of limitations; or nonclaim statute; are barred against the estate, the personal representative, ~~and the decedent's heirs and devisees, and nonprobate transferees~~ of the decedent; unless presented within the earlier of the following dates:
  - (1) one year after the decedent's death; or
  - (2) ~~within~~ the time provided by Section 62-3-801(b) for creditors who are given actual notice, and within the time provided in Section 62-3-801(a) for all creditors barred by publication; ~~provided, claims,~~
- **(b) A claim described in subsection (a) which is barred by the nonclaim statute at of the decedent's domicile before the giving of notice to creditors barred in this State are also is barred in this State.**

### Language Change §62-3-803(c)

- ~~(b)~~(c) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the State and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:
  - (1) a claim based on a contract with the personal representative within eight months after performance by the personal representative is due; **or**
  - (2) any other claim, within the later of eight months after it arises, or the time specified in subsection (a)(1).

## Language Change §62-3-803(d)

- ~~(e)~~(d) Nothing in this section ~~affects or prevents~~ **shall be construed as placing a limitation on the time for:**
  - (1) ~~any~~ **commencing a proceeding** to enforce ~~any a~~ mortgage, pledge, lien, or other security interest upon property of the estate; ~~or~~
  - (2) to the limits of the insurance protection only, ~~any~~ **commencing a proceeding** to establish liability of the decedent or the personal representative for which he is protected by liability insurance; ~~or~~
  - (3) ~~collection of~~ **collecting compensation for services rendered and to the estate or reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate.**

## Language Change §62-3-804(1) (a)

- Claims against a decedent's estate ~~may~~ **must** be presented as follows:
- (1)(a) The claimant may deliver or mail to the personal representative a written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed, and must file a written statement of the claim, in the form prescribed by rule, with the clerk of the probate court in which the decedent's estate is under administration. ~~The claim is deemed considered presented on upon the first to occur of receipt filing of the written statement of claim by the personal representative or the filing of the claim with the court.~~ If a claim is not yet due, the date when it will become due must be stated. If the claim is contingent or unliquidated, the nature of the uncertainty must be stated. If the claim is secured, the security must be described. ~~Failure to describe correctly~~ **fully** the security, the nature of any uncertainty, and the due date of a claim not yet due does not invalidate the presentation made.

## Language Change §62-3-804(1)(b) New Language

- **(b) In addition to the requirements in subsection (1)(a), a creditor seeking appointment as personal representative pursuant to Section 62-3-203(a)(6) must attach the written statement of the claim to the application or petition for appointment. For purposes of Section 62-3-803, the claim is considered to be presented when the application or petition for appointment is filed with the written statement of the claim attached.**

## Language Change §62-3-804(2)

- **(2) The Subject to subsection (5), once a claim is presented in accordance with subsection (1), a claimant may at any time thereafter commence a legal proceeding against the personal representative by the filing of a summons and petition for allowance of claim or complaint in any court where the personal representative may be subjected to jurisdiction, to obtain payment of his claim against the estate, but the commencement of the proceeding must occur within the time limited for presenting the claim, and the claimant must file a written statement of the claim as in (1) above, with the clerk of the probate court. No presentation of claim is required in regard to matters claimed in proceedings against the decedent which were pending at the time of his death seeking payment of the claim by the decedent's estate, and serving the same upon the personal representative. If the legal proceeding is not commenced in the probate court, the claimant must provide written notice to the probate court in which the decedent's estate is under administration that a legal proceeding has commenced for allowance of the claim, setting forth the court in which the legal proceeding is pending. Thereafter, the probate court shall not authorize the closing of the decedent's estate until the legal proceeding has ended.**

## Language Change §62-3-804(3) New Language

- (3) In lieu of the procedure provided in subsections (1) and (2), and subject to subsection (6), a claimant may commence a legal proceeding against the personal representative, by the filing of a summons and petition for allowance of claim or complaint in any court where the personal representative may be subjected to jurisdiction, seeking payment of his claim by the estate, and serving the same upon the personal representative. The commencement of the legal proceeding under this subsection must occur within the time limit for presenting the claim as set forth in Section 62-3-803. If the legal proceeding is not commenced in the probate court, the claimant must file a written statement of the claim with the probate court in which the decedent's estate is under administration providing substantially the same information as the statement in subsection (1), along with a statement that a legal proceeding to enforce the claim has commenced, and identifying the court where the proceeding is pending. Thereafter, the probate court shall not permit the closing of the decedent's estate until the legal proceeding has ended.

## Language Change §62-3-804(4)&(5) New Language

- (4) Notwithstanding any other provision of this section, no presentation of a claim is required in regard to matters claimed in proceedings against the decedent which were pending at the time of the decedent's death.
- (5) Notwithstanding any other provision of this section, no proceeding for enforcement or allowance of a claim or collection of a debt may be commenced more than thirty days after the personal representative has mailed a notice of disallowance or partial disallowance of the claim in accordance with the provisions of Section 62-3-806. However, in the case of a claim which is not presently due or which is contingent or unliquidated, the personal representative may consent to an extension of the thirty day period, or to avoid injustice the court, on petition presented to the court prior to the expiration of the thirty-day period, may order an extension of the thirty-day period, but in no event shall the extension run beyond the applicable statute of limitations.

## Language Change §62-3-804(6)&(7) New Language

- **(6) Notwithstanding any other provision of this section, no claim against a decedent's estate may be presented or legal action commenced against a decedent's estate prior to the appointment of a personal representative to administer the decedent's estate.**
- **(7) (A) A legal proceeding pending on the date of a decedent's death in which the decedent was a necessary party shall be suspended until a personal representative is appointed to administer the decedent's estate, unless a court otherwise orders.**
- **(B) Pursuant to Section 62-3-104, this subsection does not apply to a proceeding by a secured creditor of a decedent to enforce the secured creditor's right to its security. It does apply to a proceeding for a deficiency judgment against a decedent or the estate of a decedent."**

## Language Change §62-3-805(a)

- (a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:
- (1) costs and expenses of administration, including attorney's fees, and reasonable funeral expenses;
- (2) debts and taxes with preference under federal law;
- ~~(2)(i)~~**(3) reasonable and necessary medical and expenses, hospital expenses, and personal care expenses of the last illness of the decedent, including compensation of persons attending the decedent prior to death;**
- ~~(ii)~~ medical assistance paid under Title XIX State Plan for Medical Assistance as provided for in Section 43-7-460;
- ~~(3)~~ debts and taxes with preference under federal law;
- (4) **debts and taxes with preference under other laws of this State, in the order of their priority, including medical assistance paid under Title XIX State Plan for Medical Assistance as provided for in Section 43-7-460;**
- (5) all other claims.

## Language Change §62-3-805(b) & (c) New Language in (c)

- (b) Except as is provided under subsection (a)(4) above, no preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.
- (c) **Any person advancing or lending money to a decedent's estate for the payment of a specific claim shall, to the extent of the loan, have the same priority for payment as the claimant paid with the proceeds of the loan.**

## Language Change §62-3-806(a)

- (a) As to claims presented in the manner described in Section 62-3-804(1) within the time limit prescribed in Section 62-3-803, **within sixty days after the presentment of the claim, or within fourteen months after the death of the decedent, whichever is later, the personal representative may mail must serve upon the claimant a notice to any claimant stating that the claim has been allowed or disallowed in whole or in part. Service of such notice shall be by United States mail, personal service, or otherwise as permitted by rule and a copy of the notice shall be filed with the probate court along with proof of delivery setting forth the date of mailing or other service on the claimant. A notice of disallowance or partial disallowance of a claim must contain a warning that the claim will be barred to the extent disallowed unless the claimant commences a proceeding for allowance of the claim in accordance with Section 62-3-804(2) within thirty days of the mailing or other service of the notice of disallowance or partial disallowance. Every claim which is disallowed in whole or in part by the personal representative is barred so far as not allowed unless the claimant files a petition for allowance in the court or commences a proceeding for allowance of the claim in accordance with Section 62-3-804(2) not later than thirty days after the mailing or other service against the personal representative not later than thirty days after the mailing of the notice of disallowance or partial allowance if the notice warns the claimant of the impending bar. It is the responsibility of the personal representative to notify the claimant if a claim is disallowed disallowance by the personal representative. For good cause shown, the court may reasonably extend the time for filing the notice of allowance or disallowance of a properly filed claim.**

### Language Change §62-3-806(b)

- (b) Upon service of the summons and petition of the personal representative or of a claimant in a proceeding for the purpose, the court may allow in whole or in part any claim or claims presented to the personal representative or filed with the court in due time and not barred by subsection (a) of this section. Notice of hearing in this proceeding shall be given to the claimant, the personal representative, and those other persons interested in the estate as the court may direct by order entered at the time the proceeding is commenced. The personal representative of a decedent's estate may commence a proceeding to obtain probate court approval of the allowance, in whole or part, of any claim or claims presented in the manner described in Section 62-3-804(1), within the time limit prescribed in Section 62-3-803, and not barred by subsection (a). The proceeding may be commenced by the filing of a summons and petition with the probate court, and service of the same upon the claimant or claimants whose claims are in issue; and such other interested parties as the probate court may direct by order entered at the time the proceeding is commenced. Notice of hearing on the petition shall be given to interested parties in accordance with Section 62-1-401.

### Language Change §62-3-806(c) &(d)

- (c) A judgment in a proceeding in another court against a personal representative to enforce a claim against a decedent's estate is an allowance of the claim. Upon obtaining such a judgment a claimant must file a certified copy of its judgment with the probate court in which the decedent's estate is being administered.
- (d) Unless otherwise provided in any judgment in another court entered against the personal representative and except from claims under 62-3-803, allowed claims bear interest at the legal rate (as determined according to Section 34-31-20(A)) for the period commencing thirty days upon the later of fourteen months after the time for original presentation of the claim has expired unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision date of the decedent's death or the last date upon which the claim could have been properly presented under Section 62-3-803; unless based on a contract making a provision for interest, in which case the claim bears interest in accordance with the terms of the contract

Language Change §62-3-806(e)  
New Language

- **(e) Allowance of a claim is evidence the personal representative accepts the claim as a valid debt of the decedent's estate. Allowance of a claim may not be construed to imply the estate will have sufficient assets with which to pay the claim.**

Language Change §62-3-807(a)

- **(a) Prior to the closing of the estate and no later than fourteen months after the decedent's death, the personal representative must proceed to pay the claims allowed against the estate in the order of priority prescribed; and after making provision for the homestead, for exempt property under Section 62-2-401, for claims already presented which have not been allowed or whose disallowance is the subject of a legal proceeding, or the time to file such a proceeding has not expired, and for unbarred claims which may yet be presented, including costs and expenses of administration. Upon application of the personal representative and for good cause shown, the probate court may extend the time for payment of creditor claims.**

### Language Change §62-3-807(b)

- (b) Upon the expiration of the applicable time limitation provided in Section 62-3-803 for the presentation of claims, any claimant whose claim has been allowed, or partially allowed, under Section 62-3-806 may petition the probate court, or file an appropriate motion if the administration is under Part 5, for an order directing the personal representative to pay the claim, to the extent allowed, and to the extent assets of the estate are available for payment without impairing the ability of the personal representative to fulfill the other obligations of the decedent's estate.

### Language Change §62-3-807(b)

- (c) The personal representative at any time may pay any just claim which has not been barred, with or without formal presentation, but he is personally liable to any other claimant whose claim is allowed and who is injured by such payment if:
  - (1) the payment was made before the expiration of the time limit ~~stated in subsection (a)~~ **set forth in Section 62-3-803 for the presentation of a claim.** and the personal representative failed to require the payee to give adequate security for the refund of any of the payment necessary to pay other claimants; or
  - (2) the payment was made, due to the negligence or wilful fault of the personal representative, in such manner as to deprive the injured claimant of his priority.