

59-806. Same; proceedings, procedures and substantive rights relating to property, laws applicable; matters not affected; descent of property; support and family allowances; distribution; proportionate distribution. The law of this state respecting proceedings, procedures and substantive rights relating in any way to the property in this state of a nonresident decedent and its disposition, including by way of illustration, but not limited to, all matters relating to (i) the commencement and conduct of an administration, (ii) distributions during or at the conclusion of an administration, (iii) any trust created under the will of a nonresident decedent, shall apply as if the decedent had been a resident of this state, subject to the following: (a) Nothing in this act shall be deemed to affect:

(1) Methods of proving foreign wills or the admissibility of such wills to probate or to record. Authenticated copies of wills, proved outside of this state according to the laws in force in the place where proved, relative to any property in this state, may be admitted to probate and record in the district court of any county in this state where any part of such property may be situated; such authenticated copies so admitted and recorded shall have the same validity as wills proved in this state in conformity with the laws thereof; and upon such admission to probate the court shall determine whether administration in this state is necessary;

(2) The rights of a surviving spouse electing to accept or take against the will of a nonresident decedent, or the method of such election;

(3) The effect of divorce or the birth of a child as working or not working a revocation or partial revocation of the will of a nonresident;

(4) The effect of the contest in another jurisdiction of the will of a nonresident decedent upon its validity in Kansas;

(5) The applicability of any law in determining the validity of the execution of the will of a nonresident decedent;

(6) The determination of the ultimate burden of estate or inheritance taxes imposed by reason of the death of a nonresident decedent.

(b) Real estate situated in this state, owned by an intestate decedent who is a nonresident of this state at the time of death, shall pass by intestate succession in the same manner as though said decedent were a resident of this state at the time of said decedent's death. The personal property of such a decedent shall pass by intestate succession under the laws of the place of the decedent's residence at the time of death. Real property of a testate nonresident decedent may be devised and such decedent's personal property may be bequeathed by such decedent's last will if duly executed according to the laws of this state or of the state in which it was executed, or the state of testator's residence.

(c) Support and family allowances to surviving spouses and unmarried minor children are governed by the more liberal (to them) of the laws of the decedent's domicile and the laws of this state, but the court of this state in making such allowance and in ruling on applications for orders of refusal of letters of administration shall take into account any allowances which may be made in other jurisdictions and satisfied from property therein.

(d) Notwithstanding the requirement of this section that distribution during or at the conclusion of an administration shall be made as if the decedent were a resident, if the court finds that hardship to a creditor would result therefrom or that the best interests of all persons having an interest in the estate would be forwarded by making a distribution to a foreign personal representative, or that administration is not necessary in this state, the court may, in its discretion, order distribution to the extent it finds necessary to avoid hardship to creditors or to forward the best interest of all persons having an interest in the estate, or it may order that administration is not necessary in this state, in which event, the court may order distribution of the personal property of the decedent to a foreign personal representative and the real property of such decedent shall be assigned according to the terms of the will applicable thereto, or if the terms of the will are not applicable thereto, or if there is no will, such real property shall pass according to the laws of this state.

(e) If the aggregate of liabilities of the estate in all jurisdictions exceeds its aggregate assets, the court shall order distribution, as far as practicable, so that all the creditors of decedent's estate, here and elsewhere, may receive a share in proportion to their respective obligations, with regard being given to any preferential rights determined by the court. To this end, distribution to a foreign personal representative may be ordered if all creditors whose claims have been allowed in the administration in this state shall have received their just proportions that would be due to them if the whole of the estate of the decedent, wherever found, were divided among all creditors in proportion to their respective obligations, after applying Kansas law respecting preferences to different species of obligations, and if and to the extent that the court finds such preference to be equitable under all the circumstances of the particular case.

History: L. 1967, ch. 314, § 3; L. 1968, ch. 48, § 1; L. 1976, ch. 242, § 9; Jan. 10, 1977.