

South Carolina Probate Code

Probate of Wills and Testaments

Notice of the delivery of will to judge of probate

62-2-901

Any person who has possession, custody and control over a last will and testament of a person dying must deliver the will and testament to a probate judge in that jurisdiction. The delivery must take place within thirty days after the knowledge of death, if the delivery cannot take place within thirty days than a notice of the delivery and filing must be published. The notice shall be placed in a newspaper found in the county for fifteen days. If the will and testament is not delivered and filed it can cause a punishment of a misdemeanor.

Section	Notice	Where	When
62-2-901	A notice of the delivery and filing of a person will and testament to the probate judge	A newspaper found in the persons county	For fifteen days

Exact wording:

“Every executor, devisee, legatee, trustee, guardian, attorney, or other person having in his possession, custody, or control any last will and testament, including any codicil or codicils thereto, of any person dying must within thirty days after notice or knowledge of the death of the testator deliver such last will and testament, including any codicil or codicils thereto, to the judge of the probate court having jurisdiction to admit the same to probate and such judge of probate shall file the same in his court and if proceedings for the probate are not begun within thirty days he must publish a notice of such delivery and filing in one of the newspapers in his county for fifteen days. Any executor, devisee, legatee, guardian, attorney, or other person who fails to deliver to the judge of the probate court having jurisdiction to admit it to probate any last will and testament, including any codicil or codicils thereto, upon conviction must be punished as for a misdemeanor. Any person who intentionally or fraudulently destroys, suppresses, conceals, or fails to deliver to the judge of the probate court having jurisdiction to admit it to probate any last will and testament, including any codicil or codicils thereto, for the purpose and with the intent to prevent the institution of proceedings for its probate shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or both, in the discretion of the court.”

Notice to creditors

62-3-801

A notice of the appointment of a personal representative of a will and testament must be published. The notice shall notify creditors of the estate that they have eight months to present their claims after the date of the first publication. The notice shall be placed in a newspaper of general circulation in the county upon the appointment of the representative.

Section	Notice	Where	When
62-3-801	A notice of the appointment of a personal representative to a will and testament to notify creditors	A newspaper of general circulation in the county	Upon appointment of a personal representative

Exact wording:

“a) Unless notice has already been given under this section, a personal representative upon his appointment shall 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 the published notice as provided in (a) above, or within sixty days from the mailing or other delivery of such notice, whichever is later, 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.”

**Notice of the disposition of unclaimed assets
62-3-914**

A notice shall be published to address all persons that may be interested in any unclaimed assets of an estate. The notice shall state a day and time that any interested individual may come to court and mediate their interest in the estate. The notice must be placed once a week for three weeks in a newspaper in the county where the court is held. If determined by the courts the notice must also be placed in one more newspaper where interested parties are located. After publication of the notice copies of the notice in the newspapers and an affidavit from the publisher of the newspaper must be filed with the courts.

Section	Notice	Where	When
62-3-914	A notice for the disposition of unclaimed assets to any interested parties stating a day and time	A newspaper in the county where the court is located and if determined by the courts a newspaper located where interested parties may be located	Once a week for three weeks

Exact wording:

“(a) If after the expiration of eight months from the appointment of the personal representative of a decedent it appears to the satisfaction of the court by whom the appointment was granted that the personal representative of the estate is unable to ascertain the whereabouts of a person entitled to be heir or devisee of the estate or whether a person who, if living, would be entitled as heir or devisee of this estate is dead or alive, the court may issue a notice addressed to all persons interested in the estate as heirs or devisees calling on the person whose whereabouts or the fact of whose death is unknown, his personal representatives, or heirs or devisees, to appear before the court on a certain day and hour as specified in this notice and to show cause why the personal representative should not be ordered to distribute the estate as if the person whose whereabouts or the fact of whose death is unknown had died before the decedent, and notifying all persons entitled to the estate as heir or devisee, or otherwise, to appear on a designated day and time before the court to intervene for their interest in the estate. The day fixed in the notice, on which cause must be shown, must not be less than one month after the date of the first publication of the notice. (b) The notice must be published once a week for three successive weeks in a newspaper published in the county in which the court is held. The court has the right, in its discretion, to order the notice to be published once a week for three successive weeks in one other newspaper published in another place most likely to give notice to interested persons. (c) The publication of the notice as prescribed in subsection (b) must be proved by filing with the court copies of the newspapers containing the publication of the notice and the affidavit of the publishers or printers of the respective newspapers.

(d) At the time fixed in the notice for cause to be shown, due proof of publication having been made and filed as required by subsection...”

**Notice of the return and sale of real estate
62-3-1309**

A return may be made in terms of real estate to a personal representative of a will and testament as long as it is within thirty days. If the courts decide that the real estate should be sold than a notice of the sale shall be placed in a newspaper in the county of the probate court once a week for three weeks prior to the sale. The sale shall be held the first Monday of each month or if that Monday is a legal holiday than the first day after that.

Section	Notice	Where	When
62-3-1309	A notice of the return and sale of real estate from a will and testament	A newspaper in the county of the probate court	Once a week for three weeks prior to the sale

Exact wording:

“The time for return is at least thirty days from the date of service. Should the personal representative (if not the petitioner) or any of the heirs or devisees, or other parties, if any, desire to make a return it must be in writing and the court shall in regular order, as in the case of other litigated cases, proceed to determine the issues made by petition and return and if the court decides that the real estate should be sold it shall then, in its discretion, either (a) order the personal representative to sell the same at private sale upon such terms and conditions as the court may impose; or (b) proceed to sell the same upon the next or some subsequent convenient sales day after publishing a notice of such sale three weeks prior thereto in some paper published in the county. Upon the sale being made, after the payment of the costs and expenses thereof, the court shall pay over to the personal representative the net proceeds of such sale. The personal representative shall administer such proceeds in like manner as proceeds of personal property coming into his hands. Nothing in this Part may be construed to abridge homestead exemptions.”