

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 1077
SENATE BILL 1853

AN ACT TO CONFORM THE GENERAL STATUTES TO AN OPINION OF THE UNITED STATES SUPREME COURT BY REQUIRING NOTICE TO KNOWN CREDITORS OF THE LAST DATE FOR PRESENTATION OF CLAIMS AGAINST A DECEDENT'S ESTATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-14-1 is rewritten to read:

"§ **28A-14-1. Notice for claims.**—(a) Every personal representative and collector within 20 days after the granting of letters shall notify all persons, firms and corporations having claims against the decedent to present the same to such personal representative or collector, on or before a day to be named in such notice, which day must be a least six months from the day of the first publication or posting of such notice. The notice shall set out a mailing address for the personal representative or collector. The notice shall be published once a week for four consecutive weeks in a newspaper qualified to publish legal advertisements, if any such newspaper is published in the county. If there is no newspaper published in the county, but there is a newspaper having general circulation in the county, then at the option of the personal representative, or collector, the notice shall be published once a week for four consecutive weeks in the newspaper having general circulation in the county and posted at the courthouse or the notice shall be posted at the courthouse and four other public places in the county. Personal representatives are not required to publish or mail notice to creditors if the only asset of the estate consists of a claim for damages arising from death by wrongful act. When any collector or personal representative of an estate has published or mailed the notice provided for by this section, no further publication or mailing shall be required by any other collector or personal representative.

(b) Every personal representative and collector within 90 days after the granting of letters shall send by first class mail to the last known address a copy of the notice required by subsection (a) of this section to all persons, firms, and corporations having unsatisfied claims against the decedent who are actually known or can be reasonably ascertained by the personal representative or collector within the 90 days."

Sec. 2. G.S. 28A-14-2 is rewritten to read:

"§ **28A-14-2. Proof of notice.**—A copy of the notice directed by G.S. 28A-14-1(a) to be posted or published, together with an affidavit or affidavits of one of the persons authorized by G.S. 1-600(a) to make affidavits to the effect that such notice was posted or published in accordance with G.S. 28A-14-1(a), and an affidavit of the personal representative or collector, or the attorney for the personal representative or collector, to

the effect that a copy of the notice was mailed to each creditor entitled to notice in accordance with G.S. 28A-14-1(b) shall be filed in the office of the clerk of superior court by the personal representative or collector. The copy of the notice, together with the affidavit or affidavits, shall be deemed a record of the court and a copy thereof, duly certified by the clerk of superior court, shall be received as prima facie evidence of the fact of publication or mailing in all the courts of this State."

Sec. 3. This act is effective upon ratification and shall apply to decedents dying on or after April 19, 1988.

In the General Assembly read three times and ratified this the 8th day of July, 1988.