

WARM SPRINGS TRIBAL CODE

CHAPTER 320

PROBATE

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WARM SPRINGS TRIBAL CODE

CHAPTER 320

PROBATE

I. GENERAL

320.010 **Definitions.** As used in this Chapter, except where the context otherwise requires:

- (1) "Administrator" means the person appointed by the Court to administer the estate of a decedent according to this Code and may include either an administrator nominated by the decedent's Will, appointed at the request of an interested party, or the public administrator.
- (2) "Decedent" means a person who has died leaving property that is subject to administration.
- (3) "Indian" means a member of the Confederated Tribes of the Warm Springs Reservation of Oregon, or any other person of Indian blood who is a member of a federally recognized Indian tribe or any other person on the Reservation who is recognized by the community as an Indian, including a Canadian Indian and Alaska native.
- (4) "Intestate" means one who dies without leaving a valid will, or the circumstance of dying without leaving a valid will effectively disposing of all of his estate.
- (5) "Intestate succession" means succession to property of a decedent who dies intestate or partially intestate.
- (6) "Issue", when used to refer to persons who take by intestate succession, includes all lineal descendants, except those who are the lineal descendants of living descendants. The term does include adopted children and their issue.
- (7) "Personal property" means all property other than real property.
- (8) "Public Administrator" shall mean the official of the Confederated Tribes of the Warm Springs Reservation of Oregon charged with the responsibility of acting as administrator for all estates where appointment of some other administrator is not sought by an interested party.
- (9) "Real property" means all interest in land or in buildings or improvements permanently attached to land.
- (10) "Siblings" means brothers and/or sisters.

- (11) "Take by representation" means the principle upon which the issue of a decedent takes or inherits the share of an estate which their immediate ancestor would have taken or inherited, if living.
- (12) "Testator" means a decedent who dies leaving a valid will.
- (13) "Tribal Court" means the Tribal Court of the Warm Springs Reservation of Oregon.
- (14) "Tribes" means the Confederated Tribes of the Warm Springs Reservation of Oregon.

II. JURISDICTION OF TRIBAL COURT

320.020 Jurisdiction of Tribal Court. The Tribal Court shall have jurisdiction to administer in probate the estate of a decedent who, at the time of his or her death, was domiciled or owned real or personal property situated within the Warm Springs Indian Reservation to the extent that such estate consists of property which does not come within the exclusive jurisdiction of the Secretary of the Interior of the United States.

320.021 Control of Funeral Arrangements. Control of funeral arrangements and disposition of the remains of the decedent shall be based on a decision of the family and the Indian customs of the tribes, and the Tribal Court shall have no jurisdiction over disputes involving funeral arrangements.

III. INTESTATE SUCCESSION AND WILLS

320.030 Wills.

- (1) Distribution Pursuant to Will. The Tribal Court shall distribute the estate according to the terms of the Will of the decedent which has been admitted to probate.
- (2) Who May Make a Will. Any person who is eighteen years of age or older or who has been lawfully married and who is of sound mind may make a Will.
- (3) Validity of a Will. A Will which is valid under the laws of the state or country within which it was executed shall be valid for the purposes of this Code. In addition, a Will which is handwritten by the testator and signed by the testator shall be considered to be valid.

320.031 Intestate Succession. If a decedent died leaving no Will, or having left a Will which has been rejected by the Court as invalid, the estate shall be distributed as follows:

- (1) Surviving Spouse and Issue. If the decedent leaves a surviving spouse and issue, the surviving spouse shall have a one-half interest in the net intestate estate and the issue shall have a one-half interest in the net intestate estate.

- (2) **Surviving Spouse and No Issue.** If the decedent leaves a surviving spouse and no issue, the surviving spouse shall have all the net intestate estate.
- (3) **Share of Other Than Surviving Spouse.** The part of the net intestate estate not passing to the surviving spouse shall pass:
 - (a) To the issue of the decedent. If the issue are of the same degree of kinship to the decedent, they shall take equally, but if of unequal degree, then those of more remote degrees take by representation.
 - (b) If there is no surviving issue, to the surviving parents of the decedent.
 - (c) If there is no surviving issue or parent, to the brothers and sisters of the decedent and the issue of any deceased brother or sister of the decedent by representation. If there is no surviving brother or sister, the issue of brothers and sisters take equally if they are of the same degree of kinship to the decedent, but if of unequal degree, then those of more remote degrees take by representation.
 - (d) If there is no surviving issue, parent or issue of a parent, to the grandparents of the decedent and the issue of any deceased grandparent of the decedent by representation. If there is no surviving grandparent, the issue of grandparents take equally if they are of the same degree of kinship to the decedent, but if of unequal degree, then those of more remote degrees take by representation.
- (4) **Indian Custom and Tradition Distribution of Indian Finery and Artifacts.** Notwithstanding the provisions of this Code relating to descent and distribution, Indian artifacts and finery belonging to the decedent shall be distributed in accordance with the customs and traditions of the Confederated Tribes of the Warm Springs Reservation of Oregon. Such distribution shall be in accordance with directions left by the decedent, if any, or, if the decedent left no directions, shall be as directed by the surviving spouse of the decedent; if the decedent leaves no surviving spouse, then by direction of the decedent's eldest surviving adult sibling; if decedent leaves neither a surviving spouse nor surviving adult sibling, then by direction of the decedent's parents; if the decedent leaves neither surviving spouse, surviving adult sibling nor surviving parents, then by direction of the eldest surviving adult child of the decedent.
- (5) **Effect of Abandonment on Standing to Inherit.** A person otherwise entitled to inherit pursuant to the provisions of WSTC 320.031 shall forfeit the ability to inherit from his or her spouse or child if he or she abandoned the spouse or child for a period of at least one year prior to the decedent's death and if he or she had an obligation to support decedent at the time of death or abandonment.

320.032 Escheat. If no person takes under the foregoing section, the net intestate estate shall escheat to the Confederated Tribes of the Warm Springs Reservation of Oregon. If the

court determines that the decedent had a special known interest in a particular activity of the Confederated Tribes, the court may direct that the escheated estate be dedicated to such activity.

320.033 Effect of Adoption. For the purposes of intestate succession, the relationship between an adopted person and his adoptive parents, their descendants and kindreds shall be the same to all legal intents and purposes as if the adopted person had been born in lawful wedlock to his adoptive parents and his relationship with his natural parents, their descendants and kindred shall be the same to all legal intents and purposes as if he had not been born to his natural parents.

320.034 Effect of Feloniously Taking Life of Another. No person who, with felonious intent, takes or procures the taking of the life of a decedent may inherit any property or receive any benefit, including life insurance proceeds, from the estate of a decedent.

IV. INITIATION OF PROBATE

320.040 Duty to Present Will for Probate. Every custodian of a Will shall deliver the same to the Tribal Court within 30 days after receipt of information that the maker thereof is deceased. Any such custodian who fails or neglects to do so shall be liable for damages sustained by any person injured thereby.

320.041 Proving and Admitting Will.

- (1) Proof of Will.
 - (a) Upon initiating the probate of an estate, the Will of the decedent shall be filed with the Court. Such Will may be proven and admitted to probate by filing the affidavit of an attesting witness which identifies such Will as being the Will which the decedent executed and declared to be his or her last Will.
 - (b) If the evidence of none of the attesting witnesses is available, the Court may allow proof of the Will by testimony or other evidence that the signature of the testator or at least one of the witnesses is genuine.
- (2) Contest of Will. At any time within 90 days after a Will has been admitted to probate, or within such time as the Court shall establish in the case of an exempt estate having an appraised value which does not exceed \$3,500, any person having an interest in the decedent's estate may contest the validity of such Will. In the event of such contest, the Court shall take no further action with respect to the probate of the estate, but shall set a day and hour for a hearing to determine the validity of such Will. All relevant evidence shall be presented at such hearing concerning the decedent's capacity to execute a valid Will and the circumstances surrounding its execution. Every reasonable effort shall be made to procure the testimony of the attesting witnesses to the Will, or if their testimony is not reasonably available, an effort shall be made to identify signatures to the Will through other evidence.

- (3) Admission of Contested Will to Probate. Upon considering all relevant evidence concerning the Will, the Tribal Court shall enter an order affirming the admission of such Will to probate or rejecting such Will and ordering that the probate of the decedent's estate proceed as if the decedent had died without executing such Will.

320.042 Initiating Administration of Estate.

- (1) Petition to Probate Estate. Any person having an interest in the administration of an estate which is subject to the jurisdiction of the Tribal Court may file a written petition with the Tribal Court requesting that such estate be administered in probate. Such petition shall set forth:
 - (a) The name, date of death and residence address of the decedent at the time of his or her death;
 - (b) The decedent was an Indian who, at the time of his death, was domiciled or owned real or personal property situated within the Warm Springs Indian Reservation of Oregon which does not come within the jurisdiction of the Secretary of the Interior;
 - (c) The nature of the estate and any other facts that may be necessary to give the Tribal Court jurisdiction to probate such estate;
 - (d) The decedent did not leave a Will so far as is known to the petitioner, or that the decedent left a Will which has been presented to the Court for admission to probate;
 - (e) The name, age, and residence address of the person nominated in the decedent's Will, if any, to administer the decedent's estate and, if such person desires to be appointed as Administrator, a sworn statement by such person that he is willing to serve as Administrator of the decedent's estate;
 - (f) The names, ages, relationship to the decedent, and residence addresses of all of the decedent's heirs, devisees and legatees, so far as known to the petitioner; and
 - (g) The name and address of a disinterested and competent person to appraise the value of the decedent's estate.
 - (h) The nature of any special circumstances surrounding the estate requiring the court to take immediate action to protect the property of the estate.
- (2) Order to Probate Estate. Upon finding that the decedent at the time of his or her death, was domiciled or owned real or personal property situated within the Warm Springs Indian Reservation which does not come within the exclusive jurisdiction of the Secretary of the Interior; that the decedent left an estate subject to the

jurisdiction of the Court; and that it is necessary to probate such estate, the Court shall enter an order directing that the estate be probated. The order shall state whether or not a Will of the decedent has been admitted to probate and, if so, the order shall state that any person desiring to contest the validity of such Will must do so within 90 days following the date of the order to probate the estate or within such time as the court may thereafter establish, should it appear that the probate involves an exempt estate having an appraised value which does not exceed \$3,500. The order shall also appoint an Administrator to administer the decedent's estate and appoint an appraiser to appraise the value of the decedent's estate.

- (3) Notice of Probate. Immediately following the entry of the order to probate the estate, the Administrator shall send by certified mail true copies of the order to probate the estate and the Will of the decedent admitted to probate by such order, if any, to the Credit Department of the Tribes and to each heir, devisee and legatee of the decedent, at their last known address, so far as is known to the Administrator. The Administrator shall, not less than 30 days following the entry of such order, file his affidavit with the court showing compliance with this requirement of giving notice of the probate proceeding.

320.043 Appointment, Qualifications and Duties of Administrator.

- (1) Appointment of Administrator. Upon ordering an estate to be probated, the Court shall appoint an Administrator to administer the estate according to this Code. The person nominated by the decedent's Will to administer the estate shall be appointed as the Administrator, provided such person is qualified and willing to serve in such capacity; otherwise, the Tribal Public Administrator shall be appointed as the Administrator unless he shall be disqualified.
- (2) Qualifications of the Nominated Administrator. Any person nominated in the decedent's Will to administer the decedent's estate shall be qualified for appointment as Administrator if he is an enrolled member of the Tribes or resides upon the Warm Springs Indian Reservation, is over 21 years of age and is otherwise competent to perform the duties required of an Administrator. However, as a condition to his qualification and appointment, the Court shall require such person to post a bond in such amount and form as may be required by the Court, except that no bond shall be required where the decedent's Will directs that the Administrator shall serve without bond. At the request of the nominated administrator, the probate clerk of the Confederated Tribes may assist nominated administrator provided that the normal procedures of the probate department are followed.
- (3) Compensation to Appointed Administrator. The appointed Administrator shall receive no compensation from the estate unless an Administrator nominated by decedent's Will is appointed and the decedent's Will directs that the Administrator receive compensation for performing those duties. In such event, the

compensation of the nominated Administrator shall be according to the following fee schedule:

- (a) The sum of \$250 for all property of the estate up to \$20,000.
- (b) One-third of one percent (1/3%) of the value of all property of the estate in excess of \$20,000.
- (4) **Qualifications of Public Administrator.** The person who is the duly appointed and acting Public Administrator for the Tribe shall be presumed to be qualified for appointment as the Administrator in all estates without posting bond, in the absence of a showing that he should be disqualified because of a conflict of interest with respect to his duties in a particular estate.
- (5) **Duties and Powers of Administrator.**

 - (a) The Administrator appointed by the Court shall have the following duties and powers during the administration of the estate and until discharged by the Court:

 - (i) To preserve and protect the decedent's property within the estate for the benefit of the estate and the heirs, so far as possible;
 - (ii) To promptly investigate all claims against the decedent's estate and determine whether such claims are just and proper;
 - (iii) To promptly determine the names, ages, and residence addresses of all the decedent's heirs, devisees and legatees;
 - (iv) To promptly cause a written inventory of all the decedent's property within the estate to be prepared with each article or item being separately set forth and cause such property to be exhibited to and appraised by an appraiser, and the inventory and appraisal thereof to be filed with the Tribal Court;
 - (v) To promptly give all persons entitled thereto such notice as is required by this Code;
 - (vi) To account for all property within the estate which may come into his possession or control, and to maintain accurate records of all income received and disbursements made during the course of the administration.
 - (vii) In the discretion of the administrator, to deposit monies received for the estate in interest bearing accounts with the Tribes. Interest earned shall become an asset of the estate. Tribal management

shall be responsible for rendering to the administrator a periodic accounting of interest earned on estate accounts.

- (6) Livestock. Where assets of the estate consist of livestock ranging on the open range of the Warm Springs Reservation, the administrator shall cause roundup, inventory and disposition of such livestock. Where there is no pressing need for immediate roundup of estate livestock, the livestock will be rounded up during regular general livestock rides for the range district wherein the livestock are ranging. The administrator shall notify the Natural Resources Department, the Warm Springs Tribal Police Department, and the ride boss for the appropriate range district of the intent to have the estate livestock collected during the general livestock ride of the range district. The administrator or the representative selected by the administrator shall participate in the ride to monitor collection, inventory and disposition of the estate livestock on behalf of the estate.

In the event of an emergency situation in which the estate livestock must be rounded up before a general ride, the administrator shall make such determination as he deems appropriate as to the method of roundup to be used and shall notify the Natural Resources Department, the Warm Springs Tribal Police Department and the ride bosses for the range district involved.

All necessary costs incurred in the roundup of estate livestock shall be paid as a cost of administration of the estate. The Tribal Council may, or in the absence of Council action the Tribal court by rules may, adopt a fee schedule for payment of costs of roundup of livestock in the estate.

- (7) Removal of Administrator. The Court may order the Administrator to appear and show cause why he should not be discharged. After opportunity for hearing, if it appears that the administrator should be discharged, the court may discharge the administrator for failure, neglect or improper performance of his duties.

320.044 Appointment and Duties of Appraiser.

- (1) Appointment of Appraiser. Unless the Court finds that an appraisal is not required for a given estate, upon ordering an estate to be probated, the Court shall appoint a disinterested and competent person as an appraiser to appraise all of decedent's real and personal property within the estate.
- (2) Oath of Appraiser. Before making his appraisal, the appraiser shall file a verified oath of office with the Court to the effect that he has no interest in the estate and that he will honestly, impartially and to the best of his ability appraise all of the property within the estate which shall be exhibited to him.
- (3) Duties of Appraiser. It shall be the duty of the appraiser to separately appraise the true cash value of each article or item of property within the estate, including debts due the decedent, and to indicate the appraised value of each such article or

item of property set forth in the inventory of the estate and to certify such appraisal by subscribing his name to the inventory and appraisal.

320.045 Summary Probate of Exempt Estates.

- (1) Exempt Estates. An estate having an appraised value which does not exceed \$3,500 and which is to be inherited by a surviving spouse and/or minor children of the deceased shall be exempt from the claims of all general creditors and the probate thereof may be summarily concluded as provided in this section.
- (2) Notice of Hearing to Determine Whether the Estate is an Exempt Estate. Upon petition of the Administrator, the Court shall enter an order stating that it appears, from the inventory and appraisal filed with the Court, that the appraised value of the whole estate does not exceed \$3,500 and that such estate is to be inherited by the surviving spouse and/or minor children of the decedent and shall set a date and hour for hearing objections of any interested persons, if any there be, why the whole estate should not be declared to be exempt from the claims of all general creditors and distributed to the surviving spouse and/or minor children of the decedent. Notice of such hearing shall be given by posting a true copy of such order in three public places within the Warm Springs Indian Reservation and by sending a true copy of such order by certified mail to all persons known to the Administrator to be an heir, devisee or legatee of the decedent. Such notice shall be posted or mailed not less than ten days before the time set for such hearing. On or before the time set for such hearing, the Administrator shall file his affidavit with the Court indicating compliance with this requirement of giving notice.
- (3) Hearing to Determine Whether the Estate is an Exempt Estate. If, upon such hearing, the Court finds that such estate is an exempt estate, the Court shall enter an order directing the Administrator to distribute such estate to the surviving spouse and/or the minor children of the deceased as set forth in the order and provide that no further proceedings are necessary and that, upon distributing the distributive share or shares of such estate to those entitled thereto and filing receipts therefor, the estate shall be closed.

320.046 Homestead Exemption. Upon the appraisal of an estate and it appearing that a dwelling is personal property in which other heirs and/or creditors have an interest, and the dwelling is occupied by the surviving spouse and/or children of the deceased, and it further appearing that said dwelling is necessary for the welfare and protection of such surviving spouse and/or children, the Court may, by order, set aside such dwelling for the benefit of said surviving spouse and/or children as a homestead for a period of not to exceed ten years, provided that in case of special hardship, or emergency, the Court may extend such term from year to year thereafter, provided that any heir or heirs or creditors of the deceased shall have the opportunity to appear before the Court and protest the extension of the original terms setting aside said homestead. The Court may also set aside such sums from the estate as the Court may deem

necessary for maintenance and upkeep of the home. The Court shall hear evidence on any contest before making any order of extension.

320.047 Claims Against the Estate.

- (1) Notice to Creditors. The Administrator shall promptly give notice to the creditors of the decedent and to the Tribal Credit Department for the Tribe to present their claims against the decedent's estate, unless it shall be determined by the Court that the estate is exempt from the claims of all general creditors. Such notice shall state the name, date of death, and residence address of the decedent at the time of his death; the date upon which the notice was first posted; that all persons having claims against the estate are required to present such claims in writing, with proper vouchers, to the Administrator, at a stated address, within 90 days after the date upon which such notice was first posted. Such notice shall be given by posting the same in three public places within the Warm Springs Indian Reservation of Oregon for a period of not less than 30 days. Before the expiration of said 90-day period, the Administrator shall file with the Court his verified affidavit showing that he has fully complied with this requirement of giving this notice.
- (2) Allowance or Rejection of Claims.
 - (a) A claim not presented to the Administrator within 90 days after the notice to creditors was first posted is not barred, but such claim cannot be paid until the claims presented in that period have been satisfied. Until the final account is filed, a claim against the estate is not barred and may be presented or allowed and paid out of any assets then in the hands of the Administrator not otherwise appropriated.
 - (b) All claims presented to the Administrator shall be examined, dated and endorsed with the words "examined and allowed" if the Administrator is satisfied that the claim is just, or endorsed with the words "examined and rejected" if the Administrator is not so satisfied.
 - (c) If a claim is allowed, it shall be paid in due course of administration. If a claim is rejected, the Administrator shall file notice that the claim has been rejected with the Tribal Court and serve a copy of such notice of rejection by certified mail upon the claimant.
 - (d) If the Administrator neither allows nor rejects the claim within 60 days after receipt thereof by him, it shall be deemed rejected.
- (3) Hearing on Rejected Claim. Any claimant whose claim has been rejected may request a hearing before the Tribal Court concerning the rejection of his claim by filing a petition requesting such hearing within 30 days following the date the Administrator filed notice of rejection concerning such claim with the Tribal Court or within 30 days after the claim has been deemed rejected under

subsection (2b) above. The Tribal Court shall, if the matter comes within the civil jurisdiction of the Tribal Court, set the matter for hearing as in other civil proceedings and determine whether the claim should be allowed or rejected. If no such petition is filed within the said 30-day period, the claim shall thereafter be of no validity and shall be barred.

- (4) Payment of Claims. The claims and charges against the estate which have been presented and allowed during the first 90 days following the date upon which the notice to creditors was first posted, shall be paid in the following order, and those presented and allowed or established in like manner within each succeeding period of 90 days during the continuance of the administration, shall be paid in the same manner:
 - (a) Taxes or debts of whatsoever nature due the United States;
 - (b) Any amount due the Confederated Tribes of the Warm Springs Reservation of Oregon;
 - (c) Debts which, at the death of the decedent, are liens upon his property or any right or interest therein, according to the priority of their several liens;
 - (d) Expenses of administration;
 - (e) All expenses of last illness and burial expenses;
 - (f) All other claims against the estate.

320.048 Sale of Property.

- (1) Court Approval Required. No sale of property of an estate is valid unless made pursuant to an order of the Court.
- (2) Sale of Personal Property. After filing the inventory and appraisal, the Administrator may petition the Court for authority to sell personal property of the estate for purposes of paying the expenses of last illness and burial expenses, expenses of administration, claims, if any, against the estate, and for the purpose of distribution. If, in the Court's judgment, such sale is in the best interest of the estate, the Court shall order such sale and prescribe the terms upon which the property shall be sold.
- (3) Sale of Real Property. When the proceeds of the sale of personal property and other funds of the estate have been exhausted, and the charges, expenses and claims against the estate have not all been satisfied, or when it appears to the satisfaction of the Court that it would be in the best interest of the heirs, devisees or legatees that all or a part of the real property of the estate be sold for purposes of distribution, the Administrator shall petition the Court for authority to sell real property of the estate, or so much thereof as may be necessary for that purpose.

If, in the Court's judgment, such sale is in the best interest of the estate, the Court shall order such sale and shall prescribe the terms upon which the real property shall be sold. If any such real property has been specifically devised, it shall be exempt from the operation of the Order of Sale.

320.049 Annual Accounting. Annually, within 30 days of the anniversary date of the order appointing Administrator, the Administrator shall file an account with the Tribal Court, verified by his oath, showing the amount of money that was received and expended by him, from whom received and to whom paid, with proper vouchers for such payment, the name and amount of each claim against the estate which has been presented, and whether such claim has been rejected, the property sold, if any, and any other matter necessary to fully show the condition and affairs of the estate.

320.050 Settlement of Final Account, Determination of Heirship.

- (1) Final Account. When the affairs of an estate have been fully administered, the Administrator shall file a final account with the Court, verified by his oath. Such final account shall affirmatively set forth:
 - (a) That all claims against the estate have been paid; or that all such claims have been paid, except as shown; and that the estate has adequate unexpended and unappropriated funds to fully pay all such remaining claims;
 - (b) The amount of money received and expended by him, from whom received and to whom paid, referring to the vouchers for each of such payments;
 - (c) That there is nothing further to be done in the administration of the estate except as shown in the final account;
 - (d) The remaining assets of the estate, including unexpended and unappropriated money, at the time of filing of the final account;
 - (e) The proposed determination of heirs and indicate the names, ages, address and relationship to the decedent of each distributee and the proposed distributive share and value thereof of each heir, devisee is to receive;
 - (f) A request that the Court set a time for the filing of objection to the final account, or to the proposed determination of the heirs or devisees, or to the proposed distributive share each distributee is to receive;
 - (g) A request that the Court set a day and hour for conducting a hearing on any objections filed;

- (h) A request that the Court determine the heirs and devisees of the decedent, the distributive share each distributee is to receive and approve the final account.
- (2) Order Setting Time for Filing of Objections and Hearing on Objections and to Approve Final Account and to Determine Distribution of the Estate. Upon filing of the final account, the Court shall enter an order setting a time for filing of objections, which shall be not less than twenty (20) days after such order, setting a day and hour for hearing objections, if any there be, to the approval of the Administrator's final account on file with the Court, or to the proposed determination of heirs and devisees and the distributive share each distributee is to receive, as set forth in said final account, which hearing shall be not less than ten (10) days after the deadline for filing objections.
- (3) Notice of Order. The Administrator shall post a copy of such order in three public places within the Warm Springs Indian Reservation for a period of not less than 20 days before the time set for filing such objections, and shall send by certified mail a true copy of such order and the final account, certified to as such by the Administrator, to the Tribal Credit Department and to each heir and devisee of the decedent at their last known addresses, so far as are known to the Administrator. On or before the time set for such hearing, the Administrator shall file his affidavit with the Court, indicating compliance with this requirement of giving this notice.
- (4) Approving the Final Account and Determining the Distribution of Estate. On or before the time set for filing objections, any heir or devisee, or other person having an interest in the distribution of the estate, may file an objection to the final account, or to the proposed determination of the heirs, devisees or legatees, or to the proposed distributive share each distributee is to receive, specifying the particulars of such objections with reasonable certainty. The Court shall consider all evidence relevant to the objection and shall determine the controversy with reference thereto.
- (5) Procedure When No Objections Filed. If no objections are filed within the time set by the Court, and if the final account appears to the Court to be in proper order, the Court may dispense with the hearing and enter an order pursuant to the following subsection (6).
- (6) Order Allowing Final Account and Order of Distribution. Upon concluding the hearing upon the objections, or without hearing if the hearing is dispensed with pursuant to the foregoing subsection (5), the court shall enter an order:
 - (a) Allowing the final account, either in whole or in part, as may be just and proper; and directing the Administrator to appropriate and expend funds to pay those unpaid claims, charges and allowances against the estate as shown in the final account which have been approved;

- (b) Determining the decedent's heirs, devisees and legatees, indicating the names, ages and addresses of each, and the distributive share of the remaining estate which each distributee is to receive;
- (c) Directing the Administrator to distribute such distributive share or shares to the distributees entitled thereto.

320.051 Closing Estate.

- (1) **Petition to Close Estate.** At such time as the estate is ready to be closed, the Administrator shall petition the Court for an order closing the estate, discharging the Administrator, and his bondsman, if any. Such petition shall be accompanied by vouchers for any sums paid since the order approving the final account and by a signed receipt for distributive share from each of the distributees named in the order of distribution.
- (2) **Order Closing Estate.** Upon finding that the estate has been fully administered and is in a condition to be closed, the Court shall enter an order closing the estate and discharging the Administrator and his bondsman, if any.
- (3) **Report by Administrator.** If an order closing the estate has not been entered by the end of nine months following the month in which the Administrator was appointed, the Administrator shall file a written report with the Court stating the reasons, if any there be, why the estate has not been closed.

320.052 Reopening Closed Estate. After the closing of an estate, if additional property is discovered which should have been distributed in the estate, upon the petition of any interested person the Court, on not less than thirty (30) days notice to those entitled to notice of a hearing on a final account, may order the additional property to be distributed in accordance with the original order of distribution of the estate. If any necessary act remains unperformed or for any other proper cause appearing to the Court it is necessary to reopen the closed estate, the Court upon the petition of any interested person on not less than thirty (30) days notice to those entitled to notice of a hearing on a final account may order the estate of the decedent reopened. The Court may reappoint the former Administrator or may appoint another Administrator who would have been eligible for appointment during the administration of the estate to perform such other acts as are considered necessary. The provisions of this Code as to original administration apply, insofar as applicable, to accomplish the purpose for which the estate is reopened. A claim that has previously been adjudicated or barred in the estate may not be asserted in the reopened administration.

320.053 Notice of Action. When the Administrator has knowledge of administration of the estate of the decedent in the state courts or pursuant to Bureau of Indian Affairs probate, the Administrator shall send to the appropriate state probate court or the appropriate Bureau of Indian Affairs Administrative Law Judge a Notice of Action in the tribal court on any final account or order of distribution.