

Prepared by  
Mr. Allison

Proposed revised Oregon probate code  
INHERITANCE BY NONRESIDENT ALIENS  
1st Draft  
May 4, 1967

Section 1. Deposits for nonresident alien distributees.

(1) If, at the time of distribution of an estate, the court finds that a distributee is an alien not residing within the United States who would not receive the benefit, use or control of property due him, the court shall order the personal representative to convert the property into cash and deposit the money due the alien distributee to the credit of the alien distributee at interest in a savings account in a bank or banks in this state. Sale of the property shall be in the manner provided by law for the sale of property of decedent's estates.

(2) Before money is deposited as provided in subsection (1) of this section, there shall be deducted therefrom the expenses of any sale of the property and amounts the court may allow for the services of the personal representative, his attorney and the attorney or attorney in fact representing the alien distributee in the proceeding.

(3) The pass book or other evidence of the deposit shall be delivered to the clerk of the court, who shall be custodian thereof until it is needed for withdrawal of the money deposited as provided in section 2 or 3.

(4) The money deposited and interest accrued thereon may

be withdrawn and paid or disposed of only as provided in section 2 or 3. The deposit and interest are not subject to the Uniform Disposition of Unclaimed Property Act (ORS 98.302 to 98.436 and 98.991).

Section 2. Payment of deposits to nonresident alien distributees. (1) At any time within 10 years after the date of the court order to deposit money due an alien distributee as provided in section 1, the alien distributee or, if he is deceased, the personal representative of his estate appointed by a court of this state may file with the court that ordered the deposit a petition requesting withdrawal of the money deposited and interest accrued thereon and payment thereof to the petitioner or his attorney in fact.

(2) The court, upon the filing of the petition, shall fix a time and date certain for a hearing on the petition, and shall order that written notice of the hearing be given not less than 30 days before the date thereof to the clerk of the State Land Board, the bank or banks in which the money is deposited and the consular representative of the country of which the alien distributee is or, if deceased, was a citizen.

(3) If it appears to the court at the hearing that the alien distributee or, if deceased, his heirs or beneficiaries would receive the benefit, use or control of the money deposited, the court shall order that the money deposited

and interest accrued thereon be withdrawn and paid to petitioner or his attorney in fact, after deduction therefrom of the costs and expenses of the withdrawal proceeding allowed by the court.

(4) If a petition filed as provided in subsection (1) of this section is denied by the court, a subsequent petition so filed requesting withdrawal of the same money deposited and interest shall allege the particulars of new or changed circumstances occurring after that denial that justify withdrawal and payment.

Section 3. Payment of nonresident alien distributee deposits to other distributees; escheat. (1) If the money due an alien distributee deposited as provided in section 1 and interest accrued thereon is not withdrawn and paid as provided in section 2, the court that ordered the deposit shall order that the money deposited and interest be withdrawn and paid to any distributee of the estate, other than the alien distributee, who is found by the court to be entitled to receive the money and who has filed with the court within one year after the expiration of the 10-year period specified in section 2 a petition requesting the withdrawal and payment.

(2) If the money deposited and interest accrued thereon is not withdrawn and paid as provided in section 2 or subsection (1) of this section, the money and interest shall be disposed of as escheated property.

INHERITANCE BY NONRESIDENT ALIENS

May 4, 1967

Page 4

Section 4. Register number of proceedings. All proceedings hereunder shall be had under the register number of the estate in which the court order to deposit was made and no order reopening the estate shall be required.

Proposed revised Oregon probate code  
RIGHTS OF NONRESIDENT ALIEN TO TAKE PROPERTY  
BY SUCCESSION OR TESTAMENTARY DISPOSITION  
1st Draft  
October 3, 1966

This draft is based primarily on a draft of a subcommittee consisting of Mr. Allison, Miss Lisbakken, Mr. Lovett, Mr. Barrie and Mr. Schwabe.

Section 1. Deposits for nonresident alien distributees.

(1) If, at the time of distribution of an estate, the court finds that a distributee is an alien not residing within the United States who would not receive the benefit, use or control of property due him, the court shall order the personal representative to convert the property into cash and deposit the money due the alien distributee to the credit of the alien distributee at interest in a savings account in a bank or banks in this state. Sale of the property shall be in the manner provided by law for the sale of other property of the estate.

(2) Before money is deposited as provided in subsection (1) of this section, there shall be deducted therefrom the expenses of any sale of the property and amounts the court may allow for the services of the personal representative, his attorney and the attorney in fact representing the alien distributee in the conversion and deposit proceeding.

(3) The pass book or other evidence of the deposit shall be delivered to the clerk of the court, who shall be custodian thereof until it is needed for withdrawal of the money deposited as provided in section 2 or 3.

(4) The money deposited and interest accrued thereon may be withdrawn and paid or disposed of only as provided in section 2 or 3. The deposit and interest are not subject to the Uniform Disposition of Unclaimed Property Act (ORS 98.302 to 98.436 and 98.991).

Section 2. Payment of deposits to nonresident alien distributees. (1) At any time within 10 years after the date of the court order to deposit money due an alien distributee as provided in section 1, the alien distributee or, if he is deceased, the personal representative of his estate appointed by a court of this state may file with the court that ordered the deposit a petition requesting withdrawal of the money deposited and interest accrued thereon and payment thereof to the petitioner or his attorney in fact. The petition shall be filed and all proceedings thereon shall be had under the register number of the estate proceeding in which the court order to deposit was made, but the estate need not be reopened for the purpose of the withdrawal proceeding.

(2) If a petition filed as provided in subsection (1) of this section is denied by the court, a subsequent petition so filed requesting withdrawal of the same money deposited and interest shall allege the particulars of new or changed circumstances occurring after that denial that justify withdrawal and payment.

(3) The court, upon the filing of the petition, shall fix a time and date certain for a hearing on the petition, and shall

order that written notice of the hearing be given not less than 30 days before the date thereof to the clerk of the State Land Board, the bank or banks in which the money is deposited and the consular representative of the country of which the alien distributee is or, if deceased, was a citizen.

(4) If it appears to the court at the hearing that the alien distributee or, if deceased, his heirs or beneficiaries would receive the benefit, use or control of the money deposited, the court shall order that the money deposited and interest accrued thereon be withdrawn and paid to petitioner or his attorney in fact, after deduction therefrom of the costs and expenses of the withdrawal proceeding allowed by the court.

Section 3. Payment of nonresident alien distributee deposits to other distributees; escheat. (1) If the money due an alien distributee deposited as provided in section 1 and interest accrued thereon is not withdrawn and paid as provided in section 2, the court that ordered the deposit shall order that the money deposited and interest be withdrawn and paid to any distributee of the estate, other than the alien distributee, who files with the court a petition requesting the withdrawal and payment within one year after the expiration of the 10-year period specified in section 2 and who is found by the court to be eligible to receive the money. The petition shall be filed and all proceedings thereon shall be had under the register number of the estate proceeding in which the court order to deposit was made, but the estate need

Rights of Aliens  
1st Draft  
October 3, 1966  
Page 4

not be reopened for the purpose of the withdrawal proceeding.

(2) If the money deposited and interest accrued thereon is not withdrawn and paid as provided in section 2 or subsection (1) of this section, the money and interest shall be disposed of as escheated property.

References: Advisory Committee Minutes:  
12/17, 18/65 pp. 1 to 4  
2/18, 19/66 pp. 3 to 9

Lundy's memorandum dated February 7, 1966  
3/18, 19/66 pp. 3 to 6  
4/15, 16/66 pp. 3 to 6

ORS 111.070

Section 4. Repeal of existing statute. ORS 111.070 is repealed.