§2-211. Proceeding for elective share; time limit

1. Time of election. Except as provided in subsection 2, the surviving spouse or the surviving spouse's conservator or agent under authority of a power of attorney must make the election by filing in the court and mailing or delivering to the personal representative, if any, a petition for the elective share within 9 months after the date of the decedent's death or within 6 months after the probate of the decedent's will, whichever limitation later expires. Notice of the time and place set for the hearing must be given to persons interested in the estate and to the distributees and recipients of portions of the augmented estate whose interests will be adversely affected by the taking of the elective share. Except as provided in subsection 2, the decedent's nonprobate transfers to others are not included within the augmented estate for the purpose of computing the elective share if the petition is filed more than 9 months after the decedent's death.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Extension. Within 9 months after the decedent's death, a petition for an extension of time for making an election may be filed by the surviving spouse or the surviving spouse's conservator or agent under authority of a power of attorney. If, within 9 months after the decedent's death, notice is given of the petition to all persons interested in the decedent's nonprobate transfers to others, the court for cause shown may extend the time for election. If the court grants the petition for an extension, the decedent's nonprobate transfers to others are not excluded from the augmented estate for the purpose of computing the elective-share amount, if the election is made by filing in the court and mailing or delivering to the personal representative, if any, a petition for the elective share within the time allowed by the extension.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Withdrawal of demand. A demand for an elective share may be withdrawn at any time before entry of a final determination by the court.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Court determination. After notice and hearing, the court shall determine the elective-share amount, and shall order its payment from the assets of the augmented estate or by contribution as appears appropriate under sections 2-209 and 2-210. If it appears that a fund or property included in the augmented estate has not come into the possession of the personal representative, or has been distributed by the personal representative, the court nevertheless shall fix the liability of any person who has any interest in the fund or property or who has possession thereof, whether as trustee or otherwise. The proceeding may be maintained against fewer than all persons against whom relief could be sought, but a person is not subject to contribution in any greater amount than the person would have been under sections 2-209 and 2-210 had relief been secured against all persons subject to contribution.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Enforcement. An order or judgment of the court may be enforced as necessary in suit for contribution or payment in other courts of this State or other jurisdictions.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

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