

IN THE SENATE

SENATE BILL NO. 1249

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO PROBATE; AMENDING SECTION 15-3-108, IDAHO CODE, TO PROVIDE THAT CERTAIN TIME LIMITATIONS FOR COMMENCEMENT OF PROCEEDINGS AND SPECIFIED LIMITATIONS SHALL NOT APPLY TO THE COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT OR THE SUMMARY ADMINISTRATION OF ESTATES IN WHICH A SURVIVING SPOUSE IS THE SOLE BENEFICIARY AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 15-3-108, Idaho Code, be, and the same is hereby amended to read as follows:

15-3-108. PROBATE -- TESTACY AND APPOINTMENT PROCEEDINGS -- ULTIMATE TIME LIMIT. No informal probate or appointment proceeding or formal testacy or appointment proceeding, other than a proceeding to probate a will previously probated at the testator's domicile and appointment proceedings relating to an estate in which there has been a prior appointment or proceedings under section 15-3-1201, Idaho Code, or section 15-3-1205, Idaho Code, may be commenced more than three (3) years after the decedent's death, except:

(1) ~~±~~If a previous proceeding was dismissed because of doubt about the fact of the decedent's death, appropriate probate, appointment or testacy proceedings may be maintained at any time thereafter upon a finding that the decedent's death occurred prior to the initiation of the previous proceeding and the applicant or petitioner has not delayed unduly in initiating the subsequent proceeding;

(2) ~~a~~Appropriate probate, appointment or testacy proceedings may be maintained in relation to the estate of an absent, disappeared or missing person for whose estate a conservator has been appointed, at any time within three (3) years after the conservator becomes able to establish the death of the protected person; and

(3) ~~a~~A proceeding to contest an informally probated will and to secure appointment of the person with legal priority for appointment in the event the contest is successful, may be commenced within the later of twelve (12) months from the informal probate or three (3) years from the decedent's death.

These limitations do not apply to proceedings to construe probated wills or determine heirs of an intestate or to proceedings under section 15-3-1201, Idaho Code, or section 15-3-1205, Idaho Code. In cases under subsection (1) or (2) of this section, the date on which a testacy or appointment proceeding is properly commenced shall be deemed to be the date of the decedent's death for purposes of other limitations provisions of this code which relate to the date of death.