

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998
Part 4
EXEMPT PROPERTY AND ALLOWANCES

700.2401 Applicable law.

Sec. 2401.

This part applies to the estate of a decedent who dies domiciled in this state. For a decedent who dies domiciled outside of this state, rights to homestead allowance, family allowance, and exempt property are governed by the law of the decedent's domicile at death.

History: 1998, Act 386, Eff. Apr. 1, 2000

Popular Name: EPIC

700.2402 Homestead allowance.

Sec. 2402.

A decedent's surviving spouse is entitled to a homestead allowance of \$15,000.00, adjusted as provided in section 1210. If there is no surviving spouse, each minor child and each dependent child of the decedent is entitled to a homestead allowance equal to \$15,000.00, adjusted as provided in section 1210, divided by the number of the decedent's minor and dependent children. The homestead allowance is exempt from and has priority over all claims against the estate, except administration costs and expenses and reasonable funeral and burial expenses. A homestead allowance is in addition to any share passing to the surviving spouse or minor or dependent child by the will of the decedent, unless otherwise provided, by intestate succession, or by elective share.

History: 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2000, Act 177, Imd. Eff. June 20, 2000

Popular Name: EPIC

700.2403 Family allowance.

Sec. 2403.

(1) For their maintenance during the period of administration, a reasonable family allowance is payable to the decedent's surviving spouse and minor children whom the decedent was obligated to support, and children of the decedent or another who were in fact being supported by the decedent, which allowance shall not continue for longer than 1 year if the estate is inadequate to discharge allowed claims. The family allowance may be paid in a lump sum or in periodic installments. The family allowance is payable to the surviving spouse, if living, for the use of the surviving spouse and minor and dependent children; otherwise to the children or persons having their care and custody. If a minor child or dependent child is not living with the surviving spouse, the allowance may be paid partially to the child or to a fiduciary or other person having the child's care and custody, and partially to the spouse, as their needs may appear.

(2) The family allowance is exempt from and has priority over all claims except administration costs and expenses, reasonable funeral and burial expenses, and the homestead allowance. The family allowance is not chargeable against a benefit or share passing to the surviving spouse or children by the will of the decedent, unless otherwise provided, by intestate succession, or by way of elective share. The death of an individual entitled to family allowance terminates the right to allowances not yet paid.

History: 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2000, Act 177, Imd. Eff. June 20, 2000

Popular Name: EPIC

700.2404 Exempt property.

Sec. 2404.

(1) The decedent's surviving spouse is also entitled to household furniture, automobiles, furnishings, appliances, and personal effects from the estate up to a value not to exceed \$10,000.00 more than the amount of any security interests to which the property is subject. If there is no surviving spouse, the decedent's children who are not excluded under subsection (4) are entitled jointly to the same value.

(2) If encumbered assets are selected and the value in excess of security interests, plus that of other exempt property, is less than \$10,000.00, or if there is not \$10,000.00 worth of exempt property in the estate, the spouse or children who are not excluded under subsection (4) are entitled to other assets of the estate, if any, to the extent necessary to make up the \$10,000.00 value. Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, except that the right to assets to make up a deficiency of exempt property abates as necessary to permit payment of all of the following in the following order:

- (a) Administration costs and expenses.
- (b) Reasonable funeral and burial expenses.
- (c) Homestead allowance.
- (d) Family allowance.

(3) The rights under this section are in addition to a benefit or share passing to the surviving spouse or children by the decedent's will, unless otherwise provided, by intestate succession, or by elective share. The \$10,000.00 amount described in this section must be adjusted as provided in section 1210.

(4) The decedent may exclude 1 or more of the decedent's children from receiving exempt property or assets to make up a deficiency of exempt property under subsection (1) by either of the following means:

- (a) The decedent by will expressly states either of the following:
 - (i) The child takes nothing.
 - (ii) The child takes an amount of \$10.00 or less from the estate.
- (b) The decedent by will expressly states that the child is not to receive exempt property under this section.

History: 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2000, Act 177, Imd. Eff. June 20, 2000 ;-- Am. 2018, Act 143, Eff. Aug. 8, 2018
Popular Name: EPIC

700.2405 Selection, determination, and documentation.

Sec. 2405.

(1) If the estate is otherwise sufficient, property specifically devised shall not be used to satisfy rights to homestead allowance or exempt property. Subject to this restriction, the surviving spouse, fiduciaries or others that have the care and custody of minor children, or children who are adults may select property of the estate as homestead allowance and exempt property.

(2) The personal representative may make those selections if the surviving spouse, the adult children, or those acting for the minor children are unable or fail to do so within a reasonable time. The personal representative may execute a deed of distribution or other instrument to establish the ownership of property taken as homestead allowance or exempt property. The personal representative may determine the family allowance in a lump sum not exceeding \$18,000.00, adjusted as provided in section 1210, or periodic installments not exceeding 1/12 of that amount per month for 1 year, and may disburse funds of the estate in payment of the family allowance and any part of the homestead allowance payable in cash.

(3) The personal representative or an interested person aggrieved by a selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a family allowance other than that which the personal representative determined or could have determined.

History: 1998, Act 386, Eff. Apr. 1, 2000
Popular Name: EPIC

