

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 794) of Alfred L. Podolski, David H. Locke and Arthur Joseph Lewis, Jr., for legislation relative to notice in certain probate actions. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT RELATIVE TO NOTICE IN CERTAIN PROBATE ACTIONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 192, Section 9 of the General Laws as
2 most recently amended by St. 1950, Chapter 390 is hereby
3 amended by striking the entire section and inserting in place
4 thereof the following new section: —

5 Any person interested in a will which has been proved and
6 allowed in any other of the United States or in a foreign country
7 according to the laws of such state or country, or in a will which,
8 by the laws of the state or country in which it was made, is valid
9 without probate, may produce to the probate and family court
10 in any county where there is any property, real or personal, on
11 which such will may operate, a copy of such will and the probate
12 thereof, duly authenticated, or if such will is valid without probate
13 as aforesaid, a copy of the will or of the official record thereof
14 duly authenticated by the proper official having custody of such
15 will or record in such state or country together with an affidavit,
16 in each case, by the petitioner or other person having knowledge
17 of the facts, stating the names and residences of the known heirs
18 and the next of kin of the testator living at his death and their
19 relationship to the testator. The court shall thereon assign a time
20 and place for hearing and cause notice thereof to be given to all
21 persons interested by publication at such times and in such
22 newspapers as the court orders, said publication to the thirty days
23 at least before the time assigned for hearing.

1 SECTION 2. Chapter 202 section 38 of the General Laws as
2 most recently amended by St. 1976, Chapter 549 is hereby
3 amended by striking the entire section and inserting in place
4 thereof the following new section: —

5 After the entry of a decree authorizing or licensing an executor,
6 administrator, guardian, conservator or trustee to sell real estate
7 at a public or private sale, provided: (a) the notice of the petition
8 for license to sell real estate and of the time and place appointed
9 for hearing, the same shall have been given by publication at such
10 times and in such newspapers as the court orders, and (b) there
11 shall have been no appearance entered against such sale prior to
12 the entry of the decree or where such appearance shall have been
13 entered and withdrawn prior to the entry of the decree,
14 notwithstanding the fact that an appeal may have been taken prior
15 to the expiration of the period allowed for an appeal therefrom,
16 it shall be conclusively presumed that the amount of the
17 advantageous offer stated in said petition for license to sell real
18 estate is the highest possible price obtainable for the real estate
19 described in such petition and that the executor, administrator,
20 guardian, conservator, or trustee has fully satisfied his fiduciary
21 duty to obtain the highest possible price for such real estate.