

LDIR#213
ART. III
ADMINISTRA-
TION
PART 7 CLAIMS



Art III

Model § 144 ?

Part 7 Claims

3.95

Sec. 901. PRESENTATION AND PAYMENT OF CLAIMS. The personal representative shall pay valid claims against the estate when they are allowed by the court. ^(verified by affidavit) Claims are filed with the court, and for the claim to be allowed the statement of claims must describe:

- (1) the nature of the claim;
- (2) the amount of the claim;
- (3) when the claim became or is to become due;
- (4) any setoffs known to the claimant;
- (5) a contingency, if any;
- (6) (when the claim is founded upon a writing, and the writing is not offered) the reasons for failure to produce the writing;
- (7) security held for the claim, if any.

COMMENT:

The section is based on Mod^(el), Sec. 137; Mo., Sec. 145; Sec. 61-13-3, ACLA 1949; Cal. Prob. C.A., Sec. 705.

This section is based ^(reminiscently) upon Model, Sec. 137, but has been changed considerably to eliminate matters of procedure and to confine the section to the substance of claims. All claims except for expenses of administration must be allowed by the court before payments, being at his own risk. See Model, Sec. 8.07, comment.

It is believed that the affidavit requirement formerly found in Sec. 61-¹³3, ACLA 1949 (and likewise in the original Model provision) since it relates to ^(form in which) the ~~sufficiency~~ of evidence offered, ^(a matter to be covered by court rule.) is procedural. Although the perjury sanction of Sec. 65-7-1 and 65-7-2 is not available absent an affidavit, but a sufficiently

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Sec 8.01

Presentation and payment of claims

The personal representative shall pay valid claims against the estate when they are allowed by the court. Claims are filed with the court, and to be allowed, must describe

1. The nature of the claim
2. The amount of the claim
3. When the claim became or is to become due.
4. Any set-offs known to the claimant
5. a contingency, if any
6. (when the claim is founded upon a writing, and the writing is not offered) the reason for failure to produce the writing.

VII. Claims

Sec. 8.01. Form and verification of claims.

(a) General requirements. No claim shall be allowed against an estate on application of the claimant unless it shall be in writing, describe the nature and the amount thereof, if ascertainable, and be accompanied by the affidavit of the claimant or someone for him that the amount is justly due, or if not yet due, when it will or may become due, that no payments have been made thereon which are not credited, and that there are no offsets to the same, to the knowledge of the affiant, except as therein stated. If the claim is contingent, the nature of the contingency shall also be stated.

(b) Requirements when claim founded on written instrument.

If a claim is founded on a written instrument, the original or a copy thereof with all indorsements must be attached to the claim. The original instrument must be exhibited to the personal representative or court, upon demand, unless it is lost or destroyed, in which case its loss or destruction must be stated in the claim.

Source: