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Upon Information and Belief

Dicta Editorial Board

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Notice to Creditors

In 1941 the General Assembly did away with the very greatly outmoded notice of adjustment day and substituted therefor a notice to creditors requiring creditors to file claims within six months of the appointment of the personal representative. The law provided that the first publication of the notice to creditors should be made within fifteen days after appointment. Ever since that time, lawyers have been trying to answer the question, "What if the notice to creditors is not published within the fifteen days?" It has seemed desirable that the law be amended by stating the effect of failure to publish the notice within the fifteen days required, and to that end several suggestions have been proposed by persons interested.

There has been presented to the General Assembly now in session a bill which includes an amendment to this section. The amendment as presented to the General Assembly states in effect that if the notice to creditors is not published within the fifteen days, and if nine months have elapsed since the issuance of letters, and the publication of the notice of final settlement has been completed, and if fifteen days have elapsed since the last publication, the court may, if it feels that no person will be harmed thereby, waive the publication of the notice to creditors.

We understand that an alternative proposal will be made to the General Assembly for the amendment of this section to provide that the notice to creditors shall state the date on or before which claims must be filed. If the notice to creditors is published within fifteen days after appointment, the date fixed in the notice will be the date six months after the issuance of letters. If the notice is not published within the fifteen-day period, the day fixed in the notice shall be fixed by the court and shall be a date not less than six months after the issuance of letters, not less than thirty days after the first publication of the notice, and not more than six months after the first publication of the notice.

The Judiciary committees of the House and Senate would undoubtedly like to know which of these methods or what alternative method of amending this section should be adopted, and it is therefore recommended that all attorneys having any suggestions on the subject forward those suggestions to the Judiciary committees of the House and Senate.