

## Chapter 9

### **PROBATE**

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## ARTICLE I. IN GENERAL

### Sec. 9-1. Determination of heirs; probate.

When any person dies leaving personal or real property situated within the Community other than an allotment or other trust property subject to the jurisdiction of the United States, any person claiming to be an heir to the decedent may bring suit in the Community court to have the court determine the heirs of the decedent and to divide among the heirs such property not including allotments or other trust property of the decedent. No determination of the heirs shall be made unless all the possible heirs known to the court, to the superintendent and to the claimant, have been notified of the suit and given full opportunity to come before the court and defend their interests. Possible heirs who are not residents of the Community under the jurisdiction of the court must be notified and a copy of the notice mailed to them must be preserved in the record of the case.

(Code 1976, § 4.1; Code 1981, § 9-1; Code 2012, § 9-1; Ord. No. SRO-169-93, § 1, 8-9-1993; Ord. No. SRO-402-2012, § 9-1, 5-30-2012)

### Sec. 9-2. Procedure of court.

In the determination of heirs, the court shall apply the laws of the state. The court shall also be empowered to appoint a temporary custodian or administer to supervise and protect the assets of the estate. The court may also issue permits to sell such property as may be necessary before determination and the division of the property. The court may require a bond from the custodian or administrator for the fulfillment of his or her duties, and may also fix the fee, which is not to exceed in any case one percent of the appraised value of the estate.

(Code 1976, § 4.2; Code 1981, § 9-2; Code 2012, § 9-2; Ord. No. SRO-169-93, § 1, 8-9-1993; Ord. No. SRO-402-2012, § 9-2, 5-30-2012)

### Sec. 9-3. Approval of wills.

When any person dies leaving a will disposing of personal or real property situated within the Community other than an allotment or other trust property subject to the jurisdiction of the

United States, the Community court shall at the request of any person named in the will or any other interested party determine the validity of the will after giving notice and full opportunity to appear in court to tell all persons who might be heirs of the decedent, as under section 9-1. A will shall be deemed valid if the decedent had a sane mind and understood what he or she was doing when he or she made the will and was not subject to any undue influence of any kind from any person; and if the will was made in writing and signed by the decedent in the presence of two witnesses who also signed the will. If the court determines the will to be validly executed, it shall order the property described in the will not including allotments or other trust property to be given to the persons named in the will or to their heirs.

(Code 1976, § 4.3; Code 1981, § 9-3; Code 2012, § 9-3; Ord. No. SRO-169-93, § 1, 8-9-1993; Ord. No. SRO-402-2012, § 9-3, 5-30-2012)

### Secs. 9-4—9-24. Reserved.

## ARTICLE II. TRUST AND RESTRICTED LANDS

### Sec. 9-25. Qualifications for receipt of interest in trust or restricted lands.

No person shall be entitled to receive by devise or descent any interest in trust or restricted lands within the Community or otherwise subject to the jurisdiction of the Community unless such person:

- (1) Is a member of the Community; or
- (2) Is a member of a federally recognized Indian tribe and is a lineal descendant of:
  - a. A member of the Community;
  - b. An original allottee of land within the Community; or
  - c. Both a member of the Community and an original allottee of land within the Community.

(Code 1981, § 2-7; Code 2012, § 9-4; Ord. No. SRO-138-91, § 1, 3-27-1991; Ord. No. SRO-150-92, §§ 1, 2, 5-6-1992; Ord. No. SRO-402-2012, § 9-4, 5-30-2012)