

## HOUSE BILL No. 2102

By Committee on Judiciary

1-23

1 AN ACT concerning the Kansas probate code; relating to elective share of  
2 surviving spouse; real estate; amending K.S.A. 59-6a209 and repealing  
3 the existing section; also repealing K.S.A. 59-505.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 59-6a209 is hereby amended to read as follows: 59-  
7 6a209. (a) In a proceeding for an elective share, the following are applied  
8 first to satisfy the elective-share amount and to reduce or eliminate any  
9 contributions due from the decedent's probate estate and recipients of the  
10 decedent's nonprobate transfers to others:

11 (1) Amounts included in the augmented estate under K.S.A. 59-  
12 6a204, *and amendments thereto*, which pass or have passed to the  
13 surviving spouse by testate or intestate succession and amounts included in  
14 the augmented estate under K.S.A. 59-6a206, *and amendments thereto*;

15 (2) amounts included in the augmented estate which would have  
16 passed to the spouse but were disclaimed and which will pass to issue of  
17 the surviving spouse, as defined in K.S.A. 59-615, and amendments  
18 thereto, who are not the issue of the decedent; *and*

19 (3) amounts included in the augmented estate under K.S.A. 59-6a207  
20 up to the applicable percentage thereof. For the purposes of this  
21 subsection, the "applicable percentage" is twice the elective-share  
22 percentage set forth in the schedule in ~~subsection (a)~~ of K.S.A. 59-  
23 6a202(a), *and amendments thereto*, as appropriate to the length of time the  
24 spouse and the decedent were married to each other; ~~and~~

25 ~~(5) the value of any real estate recovered pursuant to K.S.A. 59-505;~~  
26 ~~and amendments thereto.~~

27 (b) If, after the application of subsection (a), the elective-share  
28 amount is not fully satisfied or the surviving spouse is entitled to a  
29 supplemental elective-share amount, amounts included in the decedent's  
30 probate estate and in the decedent's nonprobate transfer to others other  
31 than amounts included under ~~subsection (c)(1) or (3)~~ of K.S.A. 59-  
32 6a205(c)(1) or (c)(3), *and amendments thereto*, are applied first to satisfy  
33 the unsatisfied balance of the elective-share amount or the supplemental  
34 elective-share amount. The decedent's probate estate and that portion of  
35 the decedent's nonprobate transfers to others are so applied that liability  
36 for the unsatisfied balance of the elective-share amount or for the

1 supplemental elective-share amount is equitably apportioned among the  
2 recipients of the decedent's probate estate and that portion of the  
3 decedent's nonprobate transfers to others in proportion to the value of their  
4 interest therein.

5 (c) If, after the application of subsections (a) and (b), the elective-  
6 share or supplemental elective-share amount is not fully satisfied, the  
7 remaining portion of the decedent's nonprobate transfers to others is so  
8 applied that liability for the unsatisfied balance of the elective-share or  
9 supplemental elective-share amount is equitably apportioned among the  
10 recipients of that portion of the decedent's nonprobate transfers to others in  
11 proportion to the value of their interests therein.

12 Sec. 2. K.S.A. 59-505 and 59-6a209 are hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after its  
14 publication in the statute book.