

CHAPTER 71.

SERVICE-CONSTRUCTIVE AND BY PUBLICATION.

An Act to amend Section 2435 of the Revised Statutes of Wyoming, relating to constructive service, and service by publication.

Be it enacted by the Legislature of the State of Wyoming:

Section 1. That Section 2435 of the Revised Statutes of Wyoming be and the same is hereby amended and re-enacted so that it shall read as follows: Amendment.

Sec. 2435. Service by publication may be had in either of the following cases:

First. In actions under the first three Sections of the last preceding Chapter, when the defendant resides out of the state, or his residence cannot be ascertained; Non-resident or unknown.

Second. In actions to establish or set aside a will, where the defendant resides out of the state, or his residence cannot be ascertained; Matter of will.

Third. In actions in which it is sought by a provisional remedy to take, or appropriate in any way, the property of the defendant, when the defendant is a foreign corporation, or a non-resident of this state, or the defendant's place of residence is unknown, and in actions against a corporation incorporated under the laws of this state, which has failed to elect officers, or to appoint an agent, upon whom service of summons can be made as provided by Section twenty-four hundred and thirty-one, and which has no place of doing business in this state. Corporate and property of non-resident.

Fourth. In actions which relate to, or the subject of which is real or personal property in this state, when a defendant has or claims a lien thereon, or an actual or contingent interest therein, or the relief demanded consists wholly or partly in excluding him from any interest therein, and such defendant is a non-resident of the state, or a foreign corporation, or his place of residence cannot be ascertained;

Fifth. In actions against executors, administrators, or guardians, when the defendant has given bond as such in this state, but at the time of the commencement of the action is a non-resident of the state, or his place of residence cannot be ascertained. Against executors, etc.

Sixth. In actions where the defendant, being a resident of this state, has departed from the county of his residence with the intent to delay or defraud his creditors, or to avoid the service of a summons, or keeps himself concealed with like intent; ^{Avoiding service.}

Seventh. When a defendant in a petition in error has no attorney of record in this state, and is a non-resident of, and absent from the same, or has left the same to avoid the service of summons in error, or so conceals himself that such process cannot be served upon him;

Eighth. In action or proceeding under Chapter six, division four, of this Title, or to impeach a judgment or order for fraud, or to obtain an order of satisfaction thereof, when a defendant is a non-resident of the state; ^{In case of fraud.}

Ninth. In suits for divorce, for alimony, to affirm or declare a marriage void, or the modification of any decree therefor entered in such suit, when the defendant is a non-resident of the state or conceals himself or herself in order to avoid service of process; ^{Divorce, etc.}

Tenth. In all actions or proceedings which involve or relate to the waters, or right to appropriate the waters, of the natural streams, springs, lakes, or other collections of still water within the boundaries of the state, or which involve or relate to the priority of appropriations of such waters, including appeals from the determinations of the state board of control, and in all actions or proceedings which involve or relate to the ownership of irrigating ditches situated wholly or partly within this state, when the defendant, or any of the defendants are non-residents of the state. ^{Waters.}

In any case in which service by publication is made under the provisions of this Section, when the residence of a defendant is known, it must be stated in the publication; immediately after the first publication the party making the service shall deliver to the clerk copies of the publication, with the proper postage, and the clerk shall mail a copy to each defendant, directed to his residence named therein, and make an entry thereof, on the appearance docket; and in all other cases the party who makes the service, his agent or attorney, shall before the hearing, make and file an affidavit that the residence of the defendant is unknown, and cannot with reasonable diligence be ascertained. ^{Requirements in publication.}

In force.

Sec. 2. This Act shall take effect and be in force from and after its passage, and in the case of any action already, commenced, to which subdivision tenth of Section twenty-four hundred and thirty-five as amended in accordance with the terms of this Act is applicable, service by publication may be made in accordance with the terms of said subdivision.

Approved February 16, A. D. 1895.