

#### **§44-1-4. Appointment of intestate administrator; affidavit of heirs of nonresident intestate decedent without appointment of intestate administrator.**

(a) When a person dies intestate the jurisdiction to hear and determine the right of administration of his or her estate shall be in the county commission or clerk thereof during the recess of the regular sessions of the county commission which would have jurisdiction as to the probate of his or her will, if there were one. *Administration shall be granted to the distributees who apply therefor, preferring first the husband or wife, and then such of the others entitled to distribution as the county commission or clerk shall see fit. If no distributee apply for administration within 30 days from the death of the intestate, the county commission or clerk may grant administration to one or more of the creditors of the decedent,* or to any other person who shall be fit.

(b) Notwithstanding the provisions of subsection (a) of this section:

(1) Any person having an interest in real estate situate in this state that was seized and possessed by a decedent who was a nonresident of this state and who has died intestate without any will, including a personal representative who has qualified in another state or jurisdiction, for which no appointment of an ancillary personal representative or administrator to administer the real estate within this state is necessary for any proper purpose may execute and tender for recording in the county an affidavit setting forth in substance:

(A) A description of the real estate owned by the nonresident decedent at the time of his or her death situate within the county where the affidavit is to be recorded together with its assessed value for tax purposes and its fair market value at the date of death of the decedent;

(B) That the nonresident decedent died intestate without any will presented or probated in this state or in any other state or jurisdiction;

(C) That more than 60 days have passed since the death of the decedent and no personal representative or administrator of the decedent's estate has been otherwise appointed in this state for any proper purpose; and

(D) The names and last known addresses of the decedent's heirs at law determined under the laws of this state entitled to the real estate situate in this state