

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Probate Act of 1975 is amended by changing
5 Section 25-1 as follows:

6 (755 ILCS 5/25-1) (from Ch. 110 1/2, par. 25-1)

7 Sec. 25-1. Payment or delivery of small estate of decedent
8 upon affidavit.

9 (a) When any person, corporation, or financial institution
10 (1) indebted to or holding personal estate of a decedent, (2)
11 controlling the right of access to decedent's safe deposit box
12 or (3) acting as registrar or transfer agent of any evidence of
13 interest, indebtedness, property or right is furnished with a
14 small estate affidavit in substantially the form hereinafter
15 set forth, that person, corporation, or financial institution
16 shall pay the indebtedness, grant access to the safe deposit
17 box, deliver the personal estate or transfer or issue the
18 evidence of interest, indebtedness, property or right to
19 persons and in the manner specified in the affidavit or to an
20 agent appointed as hereinafter set forth.

21 (a-5) The small estate affidavit set forth in subsection
22 (b) may be used to transfer personal property in a decedent's
23 estate if:

1 (1) no letters of office are outstanding on the
2 decedent's estate and no petition for letters is
3 contemplated or pending in this State or in any other
4 jurisdiction; and

5 (2) the decedent's personal estate passing to any
6 party by intestacy or under a will is limited to:

7 (A) excluding motor vehicles registered with the
8 Secretary of State, tangible and intangible personal
9 property not exceeding \$150,000; and

10 (B) motor vehicles registered with the Secretary
11 of State.

12 For purposes of this Section, the following shall not be
13 considered an excluded motor vehicle in determining the value
14 of a decedent's personal estate: (i) motor vehicles used as
15 living quarters; (ii) motor homes, mini motor homes, and van
16 campers; (iii) a non-self-propelled vehicle, as defined under
17 Section 1-217 of the Illinois Vehicle Code; (iv) a commercial
18 vehicle; (v) an implement of husbandry; or (vi) a bus or
19 commuter van.

20 For purposes of this Section, if the small estate
21 affidavit as set forth in subsection (b) is being used solely
22 for a title transaction with the Secretary of State for the
23 transfer of the decedent's motor vehicles, it may be used to
24 transfer those motor vehicles in accordance with subsection
25 (b) of Section 3-114 of Illinois Vehicle Code without
26 consideration of the value of the decedent's personal estate.

1 (b) Small Estate Affidavit

2 I, (name of affiant) , on oath state:

3 1. (a) My post office address is: ;

4 (b) My residence address is: ; and

5 (c) I understand that, if I am an out-of-state
6 resident, I submit myself to the jurisdiction of Illinois
7 courts for all matters related to the preparation and use of
8 this affidavit. My agent for service of process in Illinois
9 is:

10 NAME.....

11 ADDRESS.....

12 CITY.....

13 TELEPHONE (IF ANY).....

14 I understand that if no person is named above as my agent for
15 service or, if for any reason, service on the named person
16 cannot be effectuated, the clerk of the circuit court of
17(County) (Judicial Circuit) Illinois is recognized by
18 Illinois law as my agent for service of process.

19 2. The decedent's name is ;

20 3. The date of the decedent's death was , and I
21 have attached a copy of the death certificate hereto.

22 4. The decedent's place of residence immediately before
23 his death was ;

24 5. No letters of office are now outstanding on the
25 decedent's estate and no petition for letters is contemplated
26 or pending in Illinois or in any other jurisdiction, to my

1 knowledge;

2 6. (a) Excluding motor vehicles registered with the
3 Secretary of State, the decedent's entire personal estate
4 passing to any party either by intestacy or under a will does
5 not exceed \$150,000. (Here, list each asset, e.g., cash,
6 stock, and its fair market value.); and

7 (b) Any motor vehicles registered with the Secretary of
8 State in the decedent's entire personal estate passing to any
9 party either by intestacy or under a will. (Here, list a
10 description of each motor vehicle by make, body type, year,
11 and vehicle identification number.);

12 7. (a) All of the decedent's funeral expenses and other
13 debts have been paid, or

14 (b) All of the decedent's known unpaid debts are listed
15 and classified as follows (include the name, post office
16 address, and amount):

17 Class 1: funeral and burial expenses, which include
18 reasonable amounts paid for a burial space, crypt, or
19 niche; a marker on the burial space; and care of the burial
20 space, crypt, or niche; expenses of administration; and
21 statutory custodial claims as follows:

22

23 Class 2: the surviving spouse's award or child's award, if
24 applicable, as follows:

25

26 Class 3: debts due the United States, as follows:

1
 2 Class 4: money due employees of the decedent of not more
 3 than \$800 for each claimant for services rendered within 4
 4 months prior to the decedent's death and expenses
 5 attending the last illness, as follows:

6
 7 Class 5: money and property received or held in trust by
 8 the decedent which cannot be identified or traced, as
 9 follows:

10
 11 Class 6: debts due the State of Illinois and any county,
 12 township, city, town, village, or school district located
 13 within Illinois, as follows:

14
 15 Class 7: all other claims, as follows:

16
 17 (Strike either 7(a) or 7(b)).

18 7.5. I understand that all valid claims against the
 19 decedent's estate described in paragraph 7 must be paid by me
 20 from the decedent's estate before any distribution is made to
 21 any heir or legatee. I further understand that the decedent's
 22 estate should pay all claims in the order set forth above, and
 23 if the decedent's estate is insufficient to pay the claims in
 24 any one class, the claims in that class shall be paid pro rata.

25 8. There is no known unpaid claimant or contested claim
 26 against the decedent, except as stated in paragraph 7.

1 9. (a) The names and places of residence of any surviving
 2 spouse, minor children and adult dependent* children of the
 3 decedent are as follows:

| | | | |
|---|--------------|-----------|-------------|
| | Name and | Place of | Age of |
| 4 | Relationship | Residence | minor child |

6 *(Note: An adult dependent child is one who is unable to
 7 maintain himself and is likely to become a public charge.)

8 (b) The award allowable to the surviving spouse of a
 9 decedent who was an Illinois resident is \$..... (\$20,000,
 10 plus \$10,000 multiplied by the number of minor children and
 11 adult dependent children who resided with the surviving spouse
 12 at the time of the decedent's death. If any such child did not
 13 reside with the surviving spouse at the time of the decedent's
 14 death, so indicate).

15 (c) If there is no surviving spouse, the award allowable
 16 to the minor children and adult dependent children of a
 17 decedent who was an Illinois resident is \$..... (\$20,000,
 18 plus \$10,000 multiplied by the number of minor children and
 19 adult dependent children), to be divided among them in equal
 20 shares.

21 10. (a) The decedent left no will. The names, places of
 22 residence and relationships of the decedent's heirs, and the
 23 portion of the estate to which each heir is entitled under the
 24 law where decedent died intestate are as follows:

| | | | |
|--|--------------------|--------|------------|
| | Name, relationship | Age of | Portion of |
|--|--------------------|--------|------------|

1 and place of residence minor Estate

2 OR

3 (b) The decedent left a will, which has been filed with the
4 clerk of an appropriate court. A certified copy of the will on
5 file is attached. To the best of my knowledge and belief the
6 will on file is the decedent's last will and was signed by the
7 decedent and the attesting witnesses as required by law and
8 would be admissible to probate. The names and places of
9 residence of the legatees and the portion of the estate, if
10 any, to which each legatee is entitled are as follows:

| | | | |
|----|------------------------|--------|------------|
| 11 | Name, relationship | Age of | Portion of |
| 12 | and place of residence | minor | Estate |

13 (Strike either 10(a) or 10(b)).

14 (c) Affiant is unaware of any dispute or potential
15 conflict as to the heirship or will of the decedent.

16 10.3. My relationship to the decedent or the decedent's
17 estate is as follows:

18 10.5. (The following paragraph should appear in bold type
19 and in not less than 14-point font):

20 I understand that the decedent's estate must be
21 distributed first to satisfy claims against the decedent's
22 estate as set forth in paragraph 7.5 of this affidavit
23 before any distribution is made to any heir or legatee. By
24 signing this affidavit, I agree to indemnify and hold
25 harmless all creditors of the decedent's estate, the

1 Code of 2012.)

2 (c) Appointment of Agent. If safe deposit access is
3 involved or if sale of any personal property is desirable to
4 facilitate distribution pursuant to the small estate
5 affidavit, the affiant under the small estate affidavit may in
6 writing appoint one or more persons as the affiant's agent for
7 that purpose. The agent shall have power, without court
8 approval, to gain access to, sell, and distribute the property
9 in the manner specified in paragraphs 7.5 and 11 of the
10 affidavit; and the payment, delivery, transfer, access or
11 issuance shall be made or granted to or on the order of the
12 agent. The affiant may appoint himself or herself as the
13 designated representative to exercise the powers and perform
14 the duties of an agent described in this subsection (c).

15 (d) Reliance and Release. Any person, corporation, or
16 financial institution who acts in good faith reliance on a
17 copy of a document purporting to be a small estate affidavit
18 that is substantially in compliance with subsection (b) of
19 this Section shall be fully protected and released upon
20 payment, delivery, transfer, access or issuance pursuant to
21 such a document to the same extent as if the payment, delivery,
22 transfer, access or issuance had been made or granted to the
23 representative of the estate. Such person, corporation, or
24 financial institution is not required to see to the
25 application or disposition of the property; but each person to
26 whom a payment, delivery, transfer, access or issuance is made

1 or given is answerable therefor to any person having a prior
2 right and is accountable to any representative of the estate.

3 (e) Distributions pursuant to an affidavit substantially
4 in the form set forth in subsection (b) of this Section may be
5 made to the affiant, if so specified in paragraph 11,
6 notwithstanding the disclosure of known unpaid debts. The
7 affiant, acting on behalf of the decedent's estate, is
8 obligated to pay all valid claims against the decedent's
9 estate before any distribution is made to any heir or legatee.
10 The affiant signing the small estate affidavit prepared
11 pursuant to subsection (b) of this Section shall indemnify and
12 hold harmless all creditors, heirs, and legatees of the
13 decedent and other persons, corporations, or financial
14 institutions relying upon the affidavit who incur loss because
15 of such reliance. That indemnification shall only be up to the
16 amount lost because of the act or omission of the affiant. Any
17 person, corporation, or financial institution recovering under
18 this subsection (e) shall be entitled to reasonable attorney's
19 fees and the expenses of recovery.

20 (f) The affiant of a small estate affidavit who is a
21 non-resident of Illinois submits himself or herself to the
22 jurisdiction of Illinois courts for all matters related to the
23 preparation or use of the affidavit. The affidavit shall
24 provide the name, address, and phone number of a person whom
25 the affiant names as his agent for service of process. If no
26 such person is named or if, for any reason, service on the

1 named person cannot be effectuated, the clerk of the circuit
2 court of the county or judicial circuit of which the decedent
3 was a resident at the time of his death shall be the agent for
4 service of process.

5 (g) Any action properly taken under this Section, as
6 amended by Public Act 93-877, on or after August 6, 2004 (the
7 effective date of Public Act 93-877) is valid regardless of
8 the date of death of the decedent.

9 (h) The changes made by this amendatory Act of the 96th
10 General Assembly apply to a decedent whose date of death is on
11 or after the effective date of this amendatory Act of the 96th
12 General Assembly.

13 (i) The changes made by this amendatory Act of the 98th
14 General Assembly apply to a decedent whose date of death is on
15 or after the effective date of this amendatory Act of the 98th
16 General Assembly.

17 (j) The changes made by this amendatory Act of the 104th
18 General Assembly apply to a decedent whose date of death is on
19 or after the effective date of this amendatory Act of the 104th
20 General Assembly.

21 (Source: P.A. 104-346, eff. 8-15-25.)