

1 AN ACT concerning estates.

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

21 (b) Small Estate Affidavit

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

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

24 (b) My residence address is: ; and

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

29 NAME.....

30 ADDRESS.....

31 CITY.....

32 TELEPHONE (IF ANY).....

1 I understand that if no person is named above as my agent for  
2 service or, if for any reason, service on the named person  
3 cannot be effectuated, the clerk of the circuit court of  
4 .....(County) (Judicial Circuit) Illinois is recognized by  
5 Illinois law as my agent for service of process.

6 2. The decedent's name is ;

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

9 4. The decedent's place of residence immediately before his  
10 death was ;

11 5. No letters of office are now outstanding on the  
12 decedent's estate and no petition for letters is contemplated  
13 or pending in Illinois or in any other jurisdiction, to my  
14 knowledge;

15 6. The gross value of the decedent's entire personal  
16 estate, including the value of all property passing to any  
17 party either by intestacy or under a will, does not exceed  
18 \$100,000. (Here, list each asset, e.g., cash, stock, and its  
19 fair market value.);

20 7. (a) All of the decedent's funeral expenses have been  
21 paid, or (b) The amount of the decedent's unpaid funeral  
22 expenses and the name and post office address of each person  
23 entitled thereto are as follows:

24	Name and post office address	Amount
25	(Strike either 7(a) or 7(b)).	

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

28 9. (a) The names and places of residence of any surviving  
29 spouse, minor children and adult dependent\* children of the  
30 decedent are as follows:

31	Name and	Place of	Age of
32	Relationship	Residence	minor child

33

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

1 (b) The award allowable to the surviving spouse of a  
 2 decedent who was an Illinois resident is \$..... (\$10,000,  
 3 plus \$5,000 multiplied by the number of minor children and  
 4 adult dependent children who resided with the surviving spouse  
 5 at the time of the decedent's death. If any such child did not  
 6 reside with the surviving spouse at the time of the decedent's  
 7 death, so indicate).

8 (c) If there is no surviving spouse, the award allowable to  
 9 the minor children and adult dependent children of a decedent  
 10 who was an Illinois resident is \$..... (\$10,000, plus  
 11 \$5,000 multiplied by the number of minor children and adult  
 12 dependent children), to be divided among them in equal shares.

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

Name, relationship	Age of	Portion of
and place of residence	minor	Estate
	OR	

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

Name, relationship	Age of	Portion of
and place of residence	minor	Estate

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

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

35 11. The property described in paragraph 6 of this affidavit  
 36 should be distributed as follows:

1	Name	Specific sum or property to be distributed
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2

3

4 The foregoing statement is made under the penalties of  
5 perjury\* .

6

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7

Signature of Affiant

8

\*(Note: A fraudulent statement made under the penalties of  
9 perjury is perjury, as defined in Section 32-2 of the Criminal  
10 Code of 1961.)

11

(c) Appointment of Agent. If safe deposit access is  
12 involved or if sale of any personal property is desirable to  
13 facilitate distribution pursuant to the small estate  
14 affidavit, all persons named in paragraph 11 of the small  
15 estate affidavit (excluding minors and unascertained or  
16 disabled persons) may in writing appoint one or more persons as  
17 their agent for that purpose. The agent shall have power,  
18 without court approval, to gain access to, sell, and distribute  
19 the property for the benefit of all persons named in paragraph  
20 11 of the affidavit; and the payment, delivery, transfer,  
21 access or issuance shall be made or granted to or on the order  
22 of the agent.

23

(d) Release. Upon payment, delivery, transfer, access or  
24 issuance pursuant to a properly executed affidavit, the person  
25 or corporation is released to the same extent as if the  
26 payment, delivery, transfer, access or issuance had been made  
27 or granted to the representative of the estate. Such person or  
28 corporation is not required to see to the application or  
29 disposition of the property; but each person to whom a payment,  
30 delivery, transfer, access or issuance is made or given is  
31 answerable therefor to any person having a prior right and is  
32 accountable to any representative of the estate.

33

(e) The affiant signing the small estate affidavit prepared  
34 pursuant to subsection (b) of this Section shall indemnify and  
35 hold harmless all creditors and heirs of the decedent and other  
36 persons relying upon the affidavit who incur loss because of

1 such reliance. That indemnification shall only be up to the  
2 amount lost because of the act or omission of the affiant. Any  
3 person recovering under this subsection (e) shall be entitled  
4 to reasonable attorney's fees and the expenses of recovery.

5 (f) The affiant of a small estate affidavit who is a  
6 non-resident of Illinois submits himself or herself to the  
7 jurisdiction of Illinois courts for all matters related to the  
8 preparation or use of the affidavit. The affidavit shall  
9 provide the name, address, and phone number of a person whom  
10 the affiant names as his agent for service of process. If no  
11 such person is named or if, for any reason, service on the  
12 named person cannot be effectuated, the clerk of the circuit  
13 court of the county or judicial circuit of which the decedent  
14 was a resident at the time of his death shall be the agent for  
15 service of process.

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

20 (Source: P.A. 93-877, eff. 8-6-04.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.