



Rep. Patricia R. Bellock

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09600HB3693ham001

LRB096 08521 AJ0 38137 a

1 AMENDMENT TO HOUSE BILL 3693

2 AMENDMENT NO. _____. Amend House Bill 3693 by replacing
3 everything after the enacting clause with the following:

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

1 estate or transfer or issue the evidence of interest,
2 indebtedness, property or right to persons and in the manner
3 specified in paragraph 11 of the affidavit or to an agent
4 appointed as hereinafter set forth.

5 (b) Small Estate Affidavit

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

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

8 (b) My residence address is: ; and

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

13 NAME.....

14 ADDRESS.....

15 CITY.....

16 TELEPHONE (IF ANY).....

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

22 2. The decedent's name is ;

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

25 4. The decedent's place of residence immediately before his
26 death was ;

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

5 6. The gross value of the decedent's entire personal
6 estate, including the value of all property passing to any
7 party either by intestacy or under a will, does not exceed
8 \$100,000. (Here, list each asset, e.g., cash, stock, and its
9 fair market value.);

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

14 Name and post office address	Amount
15 (Strike either 7(a) or 7(b)).	

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

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

21 Name and	Place of	Age of
22 Relationship	Residence	minor child
23		

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

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

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

11

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

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

15 10.1. I, (the Affiant) state that my
 16 relationship to the decedent is and (check
 17 all that apply):

18 ... There is no surviving spouse; or

1 ... There is a surviving spouse, but the surviving spouse is
 2 unable to prepare the small estate affidavit or has declined,
 3 refused, or asked me to prepare the small estate affidavit. The
 4 reason that the Affiant has prepared this small estate
 5 affidavit rather than the surviving spouse is that (state here
 6 the precise time, date, and circumstances of the surviving
 7 spouse declining, refusing, or asking me to prepare the small
 8 estate affidavit; or state why the surviving spouse is unable
 9 to prepare the small estate affidavit):
 10

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

13 Name Specific sum or property to be distributed

14 The foregoing statement is made under the penalties of
 15 perjury*.

16
 17 Signature of Affiant

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

21 (c) Appointment of Agent. If safe deposit access is
 22 involved or if sale of any personal property is desirable to
 23 facilitate distribution pursuant to the small estate
 24 affidavit, all persons named in paragraph 11 of the small
 25 estate affidavit (excluding minors and unascertained or

1 disabled persons) may in writing appoint one or more persons as
2 their agent for that purpose. The agent shall have power,
3 without court approval, to gain access to, sell, and distribute
4 the property for the benefit of all persons named in paragraph
5 11 of the affidavit; and the payment, delivery, transfer,
6 access or issuance shall be made or granted to or on the order
7 of the agent.

8 (d) Release. Upon payment, delivery, transfer, access or
9 issuance pursuant to a properly executed affidavit, the person
10 or corporation is released to the same extent as if the
11 payment, delivery, transfer, access or issuance had been made
12 or granted to the representative of the estate. Such person or
13 corporation is not required to see to the application or
14 disposition of the property; but each person to whom a payment,
15 delivery, transfer, access or issuance is made or given is
16 answerable therefor to any person having a prior right and is
17 accountable to any representative of the estate.

18 (e) The affiant signing the small estate affidavit prepared
19 pursuant to subsection (b) of this Section shall indemnify and
20 hold harmless all creditors and heirs of the decedent and other
21 persons relying upon the affidavit who incur loss because of
22 such reliance. That indemnification shall only be up to the
23 amount lost because of the act or omission of the affiant. Any
24 person recovering under this subsection (e) shall be entitled
25 to reasonable attorney's fees and the expenses of recovery.

26 (f) The affiant of a small estate affidavit who is a

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

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

15 (Source: P.A. 93-877, eff. 8-6-04; 94-57, eff. 6-17-05.)".