

HB3207



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB3207

Introduced 2/18/2025, by Rep. Michael J. Coffey, Jr.

SYNOPSIS AS INTRODUCED:

755 ILCS 5/9-8
755 ILCS 5/25-1

from Ch. 110 1/2, par. 9-8
from Ch. 110 1/2, par. 25-1

Amends the Probate Act of 1975. Increases the jurisdictional amount to use the summary administration procedure or the small estate affidavit from \$100,000 to \$500,000.

LRB104 08631 JRC 18683 b

A BILL FOR

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 Sections 9-8 and 25-1 as follows:

6 (755 ILCS 5/9-8) (from Ch. 110 1/2, par. 9-8)

7 Sec. 9-8. Distribution on summary administration. Upon the
8 filing of a petition therefor in the court of the proper county
9 by any interested person and after ascertainment of heirship
10 of the decedent and admission of the will, if any, to probate,
11 if it appears to the court that:

12 (a) the gross value of the decedent's real and
13 personal estate subject to administration in this State as
14 itemized in the petition does not exceed \$500,000
15 ~~\$100,000~~;

16 (b) there is no unpaid claim against the estate, or
17 all claimants known to the petitioner, with the amount
18 known by him to be due to each of them, are listed in the
19 petition;

20 (c) no tax will be due to the United States or to this
21 State by reason of the death of the decedent or all such
22 taxes have been paid or provided for or are the obligation
23 of another fiduciary;

1 (d) no person is entitled to a surviving spouse's or
2 child's award under this Act, or a surviving spouse's or
3 child's award is allowable under this Act, and the name
4 and age of each person entitled to an award, with the
5 minimum award allowable under this Act to the surviving
6 spouse or child, or each of them, and the amount, if any,
7 theretofore paid to the spouse or child on such award, are
8 listed in the petition;

9 (e) all heirs and legatees of the decedent have
10 consented in writing to distribution of the estate on
11 summary administration (and if an heir or legatee is a
12 minor or person with a disability, the consent may be
13 given on his behalf by his parent, spouse, adult child,
14 person in loco parentis, guardian or guardian ad litem);

15 (f) each distributee gives bond in the value of his
16 distributive share, conditioned to refund the due
17 proportion of any claim entitled to be paid from the
18 estate distributed, including the claim of any person
19 having a prior right to such distribution, together with
20 expenses of recovery, including reasonable attorneys'
21 fees, with surety to be approved by the court. If at any
22 time after payment of a distributive share it becomes
23 necessary for all or any part of the distributive share to
24 be refunded for the payment of any claim entitled to be
25 paid from the estate distributed or to provide for a
26 distribution to any person having a prior right thereto,

1 upon petition of any interested person the court shall
2 order the distributee to refund that portion of his
3 distributive share which is necessary for such purposes.
4 If there is more than one distributee, the court shall
5 apportion among the distributees the amount to be refunded
6 according to the amount received by each of them, but
7 specific and general legacies need not be refunded unless
8 the residue is insufficient to satisfy the claims entitled
9 to be paid from the estate distributed. If a distributee
10 refuses to refund within 60 days after being ordered by
11 the court to do so and upon demand, the refusal is deemed a
12 breach of the bond and a civil action may be maintained by
13 the claimant or person having a prior right to a
14 distribution against the distributee and the surety or
15 either of them for the amount due together with the
16 expenses of recovery, including reasonable attorneys'
17 fees. The order of the court is evidence of the amount due;

18 (g) the petitioner has published a notice informing
19 all persons of the death of the decedent, of the filing of
20 the petition for distribution of the estate on summary
21 administration and of the date, time and place of the
22 hearing on the petition (the notice having been published
23 once a week for 3 successive weeks in a newspaper
24 published in the county where the petition has been filed,
25 the first publication having been made not less than 30
26 days prior to the hearing) and has filed proof of

1 publication with the clerk of the court;
2 the court may determine the rights of claimants and other
3 persons interested in the estate, direct payment of claims and
4 distribution of the estate on summary administration and
5 excuse the issuance of letters of office or revoke the letters
6 which have been issued and discharge the representative.

7 Any claimant may file his claim in the proceeding at or
8 before the hearing on the petition, but failure to do so does
9 not deprive the claimant of his right to enforce his claim in
10 any other manner provided by law.

11 A petition for distribution on summary administration may
12 be combined with or filed separately from a petition for
13 probate of a will or for administration of an estate.

14 (Source: P.A. 99-143, eff. 7-27-15.)

15 (755 ILCS 5/25-1) (from Ch. 110 1/2, par. 25-1)

16 Sec. 25-1. Payment or delivery of small estate of decedent
17 upon affidavit.

18 (a) When any person, corporation, or financial institution
19 (1) indebted to or holding personal estate of a decedent, (2)
20 controlling the right of access to decedent's safe deposit box
21 or (3) acting as registrar or transfer agent of any evidence of
22 interest, indebtedness, property or right is furnished with a
23 small estate affidavit in substantially the form hereinafter
24 set forth, that person, corporation, or financial institution
25 shall pay the indebtedness, grant access to the safe deposit

1 box, deliver the personal estate or transfer or issue the
2 evidence of interest, indebtedness, property or right to
3 persons and in the manner specified in the affidavit or to an
4 agent 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
13 is:

14 NAME.....
15 ADDRESS.....
16 CITY.....
17 TELEPHONE (IF ANY).....

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

23 2. The decedent's name is ;

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

26 4. The decedent's place of residence immediately before

1 his death was ;

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

6 6. The gross value of the decedent's entire personal
7 estate, including the value of all property passing to any
8 party either by intestacy or under a will, does not exceed
9 \$500,000 ~~\$100,000~~. (Here, list each asset, e.g., cash, stock,
10 and its fair market value.);

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

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

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

21

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

24

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

26

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

5

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

9

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

13

14 Class 7: all other claims, as follows:

15

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

17 7.5. I understand that all valid claims against the
 18 decedent's estate described in paragraph 7 must be paid by me
 19 from the decedent's estate before any distribution is made to
 20 any heir or legatee. I further understand that the decedent's
 21 estate should pay all claims in the order set forth above, and
 22 if the decedent's estate is insufficient to pay the claims in
 23 any one class, the claims in that class shall be paid pro rata.

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

26 9. (a) The names and places of residence of any surviving

1 spouse, minor children and adult dependent* children of the
2 decedent are as follows:

3	Name and	Place of	Age of
4	Relationship	Residence	minor child

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

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

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

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

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

1 OR

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

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

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

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

15 10.3. My relationship to the decedent or the decedent's
16 estate is as follows:

17 10.5. (The following paragraph should appear in bold type
18 and in not less than 14-point font):

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

1 corporations, or financial institutions relying upon this
 2 affidavit who incur any loss because of reliance on this
 3 affidavit, up to the amount lost because of any act or
 4 omission by me. I further understand that any person,
 5 corporation, or financial institution recovering under
 6 this indemnification provision shall be entitled to
 7 reasonable attorney's fees and the expenses of recovery.

8 11. After payment by me from the decedent's estate of all
 9 debts and expenses listed in paragraph 7, any remaining
 10 property described in paragraph 6 of this affidavit should be
 11 distributed as follows:

12	Name	Specific sum or property to be distributed
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13 The foregoing statement is made under the penalties of
 14 perjury*.

15
 16 Signature of Affiant

17 Signed and sworn before me on (insert date).

18
 19 Notary Public

20 *(Note: A fraudulent statement made under the penalties of
 21 perjury is perjury, as defined in Section 32-2 of the Criminal
 22 Code of 2012.)

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

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

1 right and is accountable to any representative of the estate.

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

19 (f) The affiant of a small estate affidavit who is a
20 non-resident of Illinois submits himself or herself to the
21 jurisdiction of Illinois courts for all matters related to the
22 preparation or use of the affidavit. The affidavit shall
23 provide the name, address, and phone number of a person whom
24 the affiant names as his agent for service of process. If no
25 such person is named or if, for any reason, service on the
26 named person cannot be effectuated, the clerk of the circuit

1 court of the county or judicial circuit of which the decedent
2 was a resident at the time of his death shall be the agent for
3 service of process.

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

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

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

16 (Source: P.A. 97-1150, eff. 1-25-13; 98-836, eff. 1-1-15.)