

1 AN ACT in relation to 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  
5 changing 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  
8 decedent 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  
12 as 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  
29 is:

30 NAME.....

31 ADDRESS.....

1 CITY.....  
 2 TELEPHONE (IF ANY).....

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

8 2. The decedent's name is ;  
 9 3. The date of the decedent's death was , and  
 10 I have attached a copy of the death certificate hereto.

11 4. The decedent's place of residence immediately before  
 12 his death was ;

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

17 6. The gross value of the decedent's entire personal  
 18 estate, including the value of all property passing to any  
 19 party either by intestacy or under a will, does not exceed  
 20 \$100,000 \$50,000. (Here, list each asset, e.g., cash, stock,  
 21 and its fair market value.);

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

26 Name and post office address Amount  
 27 (Strike either 7(a) or 7(b)).

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

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

33 Name and Place of Age of  
 34 Relationship Residence minor child

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

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

10 (c) If there is no surviving spouse, the award allowable  
11 to the minor children and adult dependent children of a  
12 decedent who was an Illinois resident is \$.....  
13 (\$10,000, plus \$5,000 multiplied by the number of minor  
14 children and adult dependent children), to be divided among  
15 them in equal shares.

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

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

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

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

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

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

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

5	Name		Specific sum or
6			property to be
7			distributed

8 The foregoing statement is made under the penalties of  
9 perjury\*.

10 .....  
11 Signature of Affiant

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

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

27 (d) Release. Upon payment, delivery, transfer, access  
28 or issuance pursuant to a properly executed affidavit, the  
29 person or corporation is released to the same extent as if  
30 the payment, delivery, transfer, access or issuance had been  
31 made or granted to the representative of the estate. Such  
32 person or corporation is not required to see to the  
33 application or disposition of the property; but each person  
34 to whom a payment, delivery, transfer, access or issuance is

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

4 (e) The affiant signing the small estate affidavit  
5 prepared pursuant to subsection (b) of this Section shall  
6 indemnify and hold harmless all creditors and heirs of the  
7 decedent and other persons relying upon the affidavit who  
8 incur loss because of such reliance. That indemnification  
9 shall only be up to the amount lost because of the act or  
10 omission of the affiant. Any person recovering under this  
11 subsection (e) shall be entitled to reasonable attorney's  
12 fees and the expenses of recovery.

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

24 (Source: P.A. 87-287.)