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H.287

Introduced by Representatives LaLonde of South Burlington and Donahue of
Northfield

Referred to Committee on

Date:

Subject: Decedents' estates; probate; small estates

Statement of purpose of bill as introduced: This bill proposes to clarify the
procedures for small probate estates and increase the small estate threshold
from \$10,000.00 to \$25,000.00.

An act relating to small probate estates

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 14 V.S.A. chapter 81 is amended to read:~~

~~CHAPTER 81. SMALL ESTATES~~

~~§ 1901. FILING INVENTORY AND BOND CONDITIONED UPON
PAYMENT OF FUNERAL EXPENSE WITH PETITION
COMMENCEMENT OF SMALL ESTATE~~

~~When application is made to the judge of probate for the appointment of an
administrator or executor of an estate, there may accompany the petition the
following:~~

1 ~~(1) A true and complete inventory of the estate of the deceased,~~
2 ~~appraised under oath at its true cash value;~~

3 ~~(2) A receipt showing that the funeral expenses of the deceased have~~
4 ~~been paid, or a personal bond in an amount determined by the judge of probate~~
5 ~~to be reasonable, conditioned for the payment of the funeral expenses of the~~
6 ~~deceased, within one year from the date of death; and~~

7 ~~(3) The will, if any.~~

8 ~~(a) When a decedent's estate has a fair market value of not more than~~
9 ~~\$25,000.00 and consists entirely of personal property, an estate may be~~
10 ~~commenced by filing:~~

11 ~~(1) a petition to open a probate estate;~~

12 ~~(2) a list of interested persons;~~

13 ~~(3) the filing fee;~~

14 ~~(4) an original death certificate;~~

15 ~~(5) an inventory of the estate, including information or estimates~~
16 ~~available at the time of filing;~~

17 ~~(6) an affidavit of paid and outstanding funeral expenses and any other~~
18 ~~known or reasonably ascertainable debts of the decedent;~~

19 ~~(7) a bond without surety in the amount of the fair market value of the~~
20 ~~estate; and~~

21 ~~(8) the will, if any.~~

1 ~~(b) An interested party who does not consent to the small estate proceeding~~
2 ~~in writing shall be provided with notice of the petition and the pending~~
3 ~~fiduciary appointment and may file any objections with the court within 14~~
4 ~~days after receiving the notice. If no objections are filed, the fiduciary~~
5 ~~appointment and any will offered for admission shall be approved by the court~~
6 ~~without further notice or hearing.~~

7 ~~(c) If, after an estate is opened pursuant to subsection (a) of this section, it~~
8 ~~is determined that the value of the decedent's estate at the time of his or her~~
9 ~~death exceeded \$25,000.00, the fiduciary shall petition the court to order that~~
10 ~~the estate be administered pursuant to the laws and rules applicable to estates~~
11 ~~with a fair market value in excess of \$25,000.00. The court shall grant the~~
12 ~~petition if it finds that the estate has a fair market value in excess of~~
13 ~~\$25,000.00 and that all applicable fees have been paid.~~

14 § 1902. LETTERS OF ADMINISTRATION AND LETTERS

15 TESTAMENTARY, SMALL ESTATES, NOTICE

16 ~~(a) Upon receiving and filing such petition, the judge of probate may make~~
17 ~~such investigation of the circumstances of the case and the facts set forth in the~~
18 ~~petition, as he or she deems proper and necessary.~~

19 ~~(b) The court may grant administration of the estate to the petitioner or~~
20 ~~some other suitable person forthwith without further notice, and may issue~~

21 ~~letters of administration to the administrator or letters testamentary to the~~

1 ~~utor without requiring further bonds, if from the petition and the investigation~~

2 it appears to the satisfaction of the court that:

3 (1) (A) the deceased left a surviving spouse or children of any age, or

4 both; or

5 (B) the deceased left a surviving parent or parents but no spouse or

6 child;

7 (2) the deceased died seized of no real estate other than a time-share

8 estate as defined by 32 V.S.A. § 3619(a); and

9 (3) the personal estate of the deceased, appraised at its true cash value as

10 of the date of death, amounts to not more than the sum of \$10,000.00.

11 (a) When a small estate is commenced pursuant to section 1901 of this

12 title:

13 (1) If the decedent had a will, the will shall be admitted and letters of

14 administration shall be issued as provided in section 902 of this title.

15 (2) If the decedent did not have a will, letters of administration shall be

16 issued as provided in section 903 of this title.

17 (b) Within 60 days after the issuance of letters of administration, and at any

18 time thereafter if deemed necessary by the fiduciary, the fiduciary shall

19 confirm, correct, or supplement the inventory filed with the petition.

1 ~~(c) Letters of administration issued pursuant to this section shall be~~
2 ~~effective for one year after the date of issuance. The court may extend the~~
3 ~~one-year duration upon motion of the fiduciary for good cause shown.~~

4 § 1903. SAME; DISCHARGE UPON PAYMENT OF FUNERAL
5 EXPENSES; RESIDUE

6 ~~(a) In intestate estates whenever it shall appear to the satisfaction of the~~
7 ~~judge of probate that an administrator appointed under sections 1901 and 1902~~
8 ~~of this title has paid or caused to be paid the funeral and burial expenses of~~
9 ~~said deceased, and has paid over all the balance and residue of said estate in~~
10 ~~accordance with the provisions of chapter 42 of this title, the court may~~
11 ~~forthwith discharge the administrator without further accounting and without~~
12 ~~notice.~~

13 ~~(1) If it appears from the record that the estate is insolvent, the fiduciary~~
14 ~~shall apply for an order of dividend from the court. If the estate is not~~
15 ~~insolvent, the fiduciary shall make payment in settlement with all known or~~
16 ~~reasonably ascertainable creditors, including payment of income taxes due for~~
17 ~~the year of the decedent's death, and pay any remaining balance to the~~
18 ~~beneficiaries of the estate as provided by the will, if any, or as otherwise~~
19 ~~provided by law.~~

1 ~~(2) Upon completion of the payments required by subdivision (1) of this~~
2 ~~subsection, the fiduciary shall file with the court a sworn statement setting~~
3 ~~forth the amounts and recipients of each payment.~~

4 ~~(b) In testate estates, whenever it shall appear to the satisfaction of the~~
5 ~~judge of probate that an executor has paid or caused to be paid the funeral and~~
6 ~~burial expenses of the deceased and has paid over the remaining property in~~
7 ~~accordance with the terms of the will unless waived, and in that event in~~
8 ~~accordance with law, the court may forthwith discharge such executor without~~
9 ~~further accounting and without notice. The court may discharge the fiduciary~~
10 ~~without further accounting and without notice after the fiduciary has~~
11 ~~completed the requirements of subsection (a) of this section.~~

12 ~~(c) If a discharge is given under this section, any assets distributed by the~~
13 ~~executor or administrator fiduciary shall be subject to claims later established,~~
14 ~~and sections 1202 and 1203 of this title shall apply, but the executors or~~
15 ~~administrators shall not be liable to distributees for losses to them when~~
16 ~~required to reimburse creditors. Each distributee shall have a duty of~~
17 ~~proportionate contribution for any claims brought against one of more other~~
18 ~~distributees, not to exceed the amount received by the distributee from the~~
19 ~~estate.~~

20 Sec. 2. EFFECTIVE DATE

21 ~~This act shall take effect on July 1, 2019.~~

Sec. 1. 14 V.S.A. chapter 81 is amended to read:

CHAPTER 81. SMALL ESTATES

§ 1901. ~~FILING INVENTORY AND BOND CONDITIONED UPON~~

~~PAYMENT OF FUNERAL EXPENSE WITH PETITION~~

COMMENCEMENT OF SMALL ESTATE

When application is made to the judge of probate for the appointment of an administrator or executor of an estate, there may accompany the petition the following:

(1) ~~A true and complete inventory of the estate of the deceased, appraised under oath at its true cash value;~~

(2) ~~A receipt showing that the funeral expenses of the deceased have been paid, or a personal bond in an amount determined by the judge of probate to be reasonable, conditioned for the payment of the funeral expenses of the deceased, within one year from the date of death; and~~

(3) ~~The will, if any.~~

(a) When a decedent's estate has a fair market value of not more than \$25,000.00 and consists entirely of personal property, provided that the estate may include a time-share estate as defined by 32 V.S.A. § 3619(a), an estate may be commenced by filing:

(1) a petition to open a probate estate;

(2) a list of interested persons;

(3) the filing fee;

(4) an original death certificate;

(5) an inventory of the estate, including information or estimates available at the time of filing;

(6) an affidavit of paid and outstanding funeral expenses and any other known or reasonably ascertainable debts of the decedent;

(7) a bond without surety in the amount of the fair market value of the estate; and

(8) the will, if any.

(b) An interested party who does not consent to the small estate proceeding in writing shall be provided with notice of the petition and the pending fiduciary appointment and may file any objections with the court within 14 days after receiving the notice. If no objections are filed, the fiduciary appointment and any will offered for admission shall be approved by the court without further notice or hearing.

(c) If, after an estate is opened pursuant to subsection (a) of this section, it is determined that the value of the decedent's estate at the time of his or her death exceeded \$25,000.00, the fiduciary shall petition the court to order that the estate be administered pursuant to the laws and rules applicable to estates with a fair market value in excess of \$25,000.00. The court shall grant the

~~petition if it finds that the estate has a fair market value in excess of \$25,000.00 and that all applicable fees have been paid.~~

~~§ 1902. LETTERS OF ADMINISTRATION AND LETTERS~~

~~TESTAMENTARY, SMALL ESTATES, NOTICE~~

~~(a) Upon receiving and filing such petition, the judge of probate may make such investigation of the circumstances of the case and the facts set forth in the petition, as he or she deems proper and necessary.~~

~~(b) The court may grant administration of the estate to the petitioner or some other suitable person forthwith without further notice, and may issue letters of administration to the administrator or letters testamentary to the executor without requiring further bonds, if from the petition and the investigation it appears to the satisfaction of the court that:~~

~~(1)(A) the deceased left a surviving spouse or children of any age, or both; or~~

~~(B) the deceased left a surviving parent or parents but no spouse or child;~~

~~(2) the deceased died seized of no real estate other than a time-share estate as defined by 32 V.S.A. § 3619(a); and~~

~~(3) the personal estate of the deceased, appraised at its true cash value as of the date of death, amounts to not more than the sum of \$10,000.00.~~

(a) When a small estate is commenced pursuant to section 1901 of this title:

(1) If the decedent had a will, the will shall be admitted and letters of administration shall be issued as provided in section 902 of this title.

(2) If the decedent did not have a will, letters of administration shall be issued as provided in section 903 of this title.

(b) Within 60 days after the issuance of letters of administration, and at any time thereafter if deemed necessary by the fiduciary, the fiduciary shall confirm, correct, or supplement the inventory filed with the petition.

(c) Letters of administration issued pursuant to this section shall be effective for one year after the date of issuance. The court may extend the one-year duration upon motion of the fiduciary for good cause shown.

§ 1903. *SAME; DISCHARGE UPON PAYMENT OF FUNERAL
EXPENSES; RESIDUE*

~~(a) In intestate estates whenever it shall appear to the satisfaction of the judge of probate that an administrator appointed under sections 1901 and 1902 of this title has paid or caused to be paid the funeral and burial expenses of said deceased, and has paid over all the balance and residue of said estate in accordance with the provisions of chapter 42 of this title, the court may forthwith discharge the administrator without further accounting and without notice.~~

(1) If it appears from the record that the estate is insolvent, the fiduciary shall apply for an order of dividend from the court. If the estate is not insolvent, the fiduciary shall make payment in settlement with all known or reasonably ascertainable creditors, including payment of income taxes due for the year of the decedent's death, and pay any remaining balance to the beneficiaries of the estate as provided by the will, if any, or as otherwise provided by law.

(2) Upon completion of the payments required by subdivision (1) of this subsection, the fiduciary shall file with the court a sworn statement setting forth the amounts and recipients of each payment.

~~(b) In testate estates, whenever it shall appear to the satisfaction of the judge of probate that an executor has paid or caused to be paid the funeral and burial expenses of the deceased and has paid over the remaining property in accordance with the terms of the will unless waived, and in that event in accordance with law, the court may forthwith discharge such executor without further accounting and without notice. The court may discharge the fiduciary without further accounting and without notice after the fiduciary has completed the requirements of subsection (a) of this section.~~

~~(c) If a discharge is given under this section, any assets distributed by the executor or administrator fiduciary shall be subject to claims later established, and sections 1202 and 1203 of this title shall apply, but the executors or~~

administrators shall not be liable to distributees for losses to them when required to reimburse creditors. Each distributee shall have a duty of proportionate contribution for any claims brought against one or more other distributees, not to exceed the amount received by the distributee from the estate.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2019.