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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 \$25,000.00  
13       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 ~~executor without requiring further bonds, if from the petition and the~~  
2 ~~investigation 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 title:

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

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

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

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

1 § 1903. SAME; DISCHARGE UPON PAYMENT OF FUNERAL  
2 EXPENSES; RESIDUE

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

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

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

20 (b) ~~In testate estates, whenever it shall appear to the satisfaction of the judge~~  
21 ~~of probate that an executor has paid or caused to be paid the funeral and burial~~

1 ~~expenses of the deceased and has paid over the remaining property in~~  
2 ~~accordance with the terms of the will unless waived, and in that event in~~  
3 ~~accordance with law, the court may forthwith discharge such executor without~~  
4 ~~further accounting and without notice. The court may discharge the fiduciary~~  
5 ~~without further accounting and without notice after the fiduciary has completed~~  
6 ~~the requirements of subsection (a) of this section.~~

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

15 Sec. 2. EFFECTIVE DATE

16 This act shall take effect on July 1, 2019.