

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 287
3 entitled “An act relating to small probate estates” respectfully reports that it
4 has considered the same and recommends that the Senate propose to the House
5 that the bill be amended by striking out all after the enacting clause and
6 inserting in lieu thereof the following:

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

8 CHAPTER 81. SMALL ESTATES

9 § 1901. ~~FILING INVENTORY AND BOND CONDITIONED UPON~~
10 ~~PAYMENT OF FUNERAL EXPENSE WITH PETITION~~
11 COMMENCEMENT OF SMALL ESTATE

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

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

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

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

1 (a) When a decedent’s estate has a fair market value of not more than
2 \$45,000.00 and consists entirely of personal property, provided that the estate
3 may include a time-share estate as defined by 32 V.S.A. § 3619(a), an estate
4 may be commenced by filing:

5 (1) a petition to open a probate estate;

6 (2) a list of interested persons;

7 (3) the filing fee;

8 (4) an original death certificate;

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

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

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

15 (8) the will, if any.

16 (b) An interested party who does not consent to the small estate proceeding
17 in writing shall be provided with notice of the petition and the pending
18 fiduciary appointment and may file any objections with the court within
19 14 days after receiving the notice. If no objections are filed, the fiduciary
20 appointment and any will offered for admission shall be approved by the court
21 without further notice or hearing.

1 (c) If, after an estate is opened pursuant to subsection (a) of this section, it
2 is determined that the value of the decedent’s estate at the time of his or her
3 death exceeded \$45,000.00, the fiduciary shall petition the court to order that
4 the estate be administered pursuant to the laws and rules applicable to estates
5 with a fair market value in excess of \$45,000.00. The court shall grant the
6 petition if it finds that the estate has a fair market value in excess of \$45,000.00
7 and that all applicable fees have been paid.

8 § 1902. LETTERS OF ADMINISTRATION ~~AND LETTERS~~
9 ~~TESTAMENTARY~~, SMALL ESTATES, NOTICE

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

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

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

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

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

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

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

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

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

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

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

16 § 1903. SAME; DISCHARGE UPON PAYMENT OF FUNERAL
17 EXPENSES; RESIDUE

18 ~~(a) In intestate estates whenever it shall appear to the satisfaction of the~~
19 ~~judge of probate that an administrator appointed under sections 1901 and 1902~~
20 ~~of this title has paid or caused to be paid the funeral and burial expenses of said~~
21 ~~deceased, and has paid over all the balance and residue of said estate in~~

1 ~~accordance with the provisions of chapter 42 of this title, the court may~~
2 ~~forthwith discharge the administrator without further accounting and without~~
3 ~~notice.~~

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

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

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

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

9 Sec. 2. 14 V.S.A. § 107 is amended to read:

10 § 107. ALLOWANCE OF WILL; CUSTODY OF PROPERTY

11 * * *

12 (b) Objections to allowance of the will must be filed in writing not less than
13 ~~three business~~ seven days prior to the hearing. In the event that no timely
14 objections are filed, the will may be allowed without hearing if it meets criteria
15 set out in section 108 of this title.

16 * * *

17 Sec. 3. EFFECTIVE DATE

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

19

20

21

1

2

3

4 (Committee vote: _____)

5

6

Senator _____

7

FOR THE COMMITTEE