

## CHAPTER 1035

### PROBATE — DISTRIBUTION OF PROPERTY BY AFFIDAVIT

H.F. 2125

**AN ACT** relating to probate by the distribution of decedent's property by affidavit, requiring certain affirmations in the affidavit, and including an applicability provision.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 633.356, subsections 1, 3, and 10, Code 2018, are amended to read as follows:

1. When the gross value of the decedent's personal property that would otherwise be distributed by will or intestate succession is or has been, at any time since the decedent's death, ~~twenty-five~~ fifty thousand dollars or less and there is no real property or the real property passes to persons exempt from inheritance tax as joint tenants with full rights of survivorship, and if forty days have elapsed since the death of the decedent, a successor as defined in subsection 2 may, by furnishing an affidavit prepared pursuant to subsection 3 or 8, and without procuring letters of appointment, do any of the following with respect to one or more items of such personal property:

a. Receive any item of tangible personal property of the decedent.

b. Have any evidence of a debt, obligation, interest, right, security, or chose in action belonging to the decedent transferred.

c. Collect the proceeds from any life insurance policy or any other item of property for which a beneficiary has not been designated.

3. a. To collect money, receive tangible personal property, or have evidences of intangible personal property transferred under this section, a successor shall furnish to the holder of the decedent's property an affidavit under penalty of perjury stating all of the following:

(1) The decedent's name, social security number, and date and place of death.

(2) That at least forty days have elapsed since the death of the decedent, as shown by an attached certified copy of the death certificate of the decedent.

(3) That the gross value of the decedent's personal property that would otherwise be distributed by will or intestate succession is, or has been at any time since the decedent's death, ~~twenty-five~~ fifty thousand dollars or less and there is no real property or the real property passes to persons exempt from inheritance tax as joint tenants with full rights of survivorship.

(4) A general description of the property of the decedent that is to be paid, transferred, or delivered to or for the benefit of each successor.

(5) The name, address, tax identification number and relationship to the decedent of each successor, and whether any successor is under a legal disability.

(6) If applicable pursuant to subsection 2, paragraph "a", that the attached copy of the decedent's will is the last will of the decedent and has been delivered to the office of a clerk of the district court in accordance with Iowa law.

(7) That no persons other than the successors listed in the affidavit have a right to the interest of the decedent in the described property.

(8) That the affiant requests that the described property be paid, delivered, or transferred to or for the benefit of each successor.

(9) That no debt is owed to the department of human services for reimbursement of Medicaid benefits; or if debt is owed, that the debt will be paid to the extent of funds received pursuant to the affidavit.

(10) That no inheritance or other taxes are owed to the department of revenue, or if taxes are owed, that the taxes will be paid to the extent of funds received pursuant to the affidavit.

(11) That creditors, if any, will be paid to the extent of funds received pursuant to the affidavit.

~~(9)~~ (12) That the affiant affirms under penalty of perjury that the affidavit is true and correct.

b. If there are two or more successors, any of the successors may execute an affidavit under this subsection.

10. Upon receipt of an affidavit under [subsection 3](#) and reasonable proof under [subsection 5](#) of the identity of each successor seeking distribution by virtue of the affidavit, the holder of the property shall disclose to the affiant whether the value of the property held by the holder is, or has been at any time since the decedent's death, ~~twenty-five~~ fifty thousand dollars or less. An affidavit furnished for the purpose of determining whether the value of the property is, or has been at any time since the decedent's death, ~~twenty-five~~ fifty thousand dollars or less need not contain the language required under [subsection 3](#), paragraph "a", subparagraph (3), but shall state that the affiant reasonably believes that the gross value of the decedent's personal property that would otherwise be distributed by will or intestate succession is, or has been at any time since the decedent's death, ~~twenty-five~~ fifty thousand dollars or less and there is no real property or the real property passes to persons exempt from inheritance tax as joint tenants with full rights of survivorship.

Sec. 2. APPLICABILITY. This Act applies to estates of decedents dying on or after July 1, 2018.

Approved March 28, 2018