

## ADMINISTRATION OF SMALL ESTATES

### **635.1 When applicable.**

1. When the gross value of the probate and nonprobate property of a decedent subject to the jurisdiction of this state does not exceed fifty thousand dollars in property subject to taxation under section 450.3, upon the petition of the spouse or a child of the decedent, the clerk shall issue to a resident of the state of Iowa designated by the petitioner letters of appointment of executor or administrator for administration of a small estate if either of the following occurs:

- a.* The decedent dies intestate and is survived by a spouse, or children, or both.
- b.* The decedent leaves a last will and testament and the only beneficiaries are a spouse, or children, or both.

2. When the gross value of the probate and nonprobate property of a decedent subject to the jurisdiction of this state does not exceed fifteen thousand dollars in property subject to taxation under section 450.3, upon the petition of a parent or grandchild of the decedent the clerk shall issue to a resident of the state of Iowa designated by the petitioner, letters of appointment as executor or administrator for administration of a small estate if either of the following occurs:

- a.* The decedent dies intestate without a surviving spouse or children but with a surviving parent or parents or surviving grandchild or grandchildren.
- b.* The decedent dies without a surviving spouse or children and leaves a last will and testament and the only beneficiaries are a surviving parent or parents or surviving grandchild or grandchildren.

3. When the entire estate of the decedent does not exceed the sum of ten thousand dollars after deducting the debts, as defined in chapter 450, upon the petition of a person related within the fourth degree of consanguinity to the decedent, the clerk shall issue to a resident of the state of Iowa designated by the petitioner, letters of appointment as executor or administrator for administration of a small estate if either of the following occurs:

- a.* The decedent dies intestate without a surviving spouse, issue, or parent, but with heirs that are all within the fourth degree of consanguinity.
- b.* The decedent dies without a surviving spouse, issue, or parent, and leaves a last will and testament and the only beneficiaries are surviving persons related to the decedent within the fourth degree of consanguinity.

[C75, 77, 79, 81, § 635.1; 81 Acts, ch 199, § 1; 82 Acts, ch 1204, § 14]

89 Acts, ch 25, §1

### **635.2 Petition requirements.**

The petition for administration of a small estate must contain the following:

1. The name, domicile, and date of death of the decedent.
2. The name and address of the surviving spouse, if any, the name and address of each child of the decedent, the name and address of each parent of the decedent, if the parent is an heir or beneficiary of the decedent, and the name and address of each grandchild of the decedent if the grandchild is an heir or beneficiary of the

decedent, unless none are beneficiaries under the will of the decedent, and the name and address of each relative within the fourth degree of consanguinity of the decedent who is an heir or beneficiary of the decedent, unless none are beneficiaries under the will of the decedent.

3. Whether the decedent died intestate or testate, and, if testate, the date of the will.

4. A statement that the probate and nonprobate property of the decedent subject to the jurisdiction of this state does not have an aggregate gross value of more than the amount permitted under the provisions of section 635.1.

5. The name and address of the proposed executor or administrator.

[C75, 77, 79, 81, § 635.2; 81 Acts, ch 199, § 2, 3]

89 Acts, ch 25, §2

### **635.3 Possession of estate.**

The letters of appointment of the executor or administrator of a small estate shall entitle the executor or administrator to possession of any property of the estate.

[C75, 77, 79, 81, § 635.3; 81 Acts, ch 199, § 4]

### **635.4 Turning over assets to executor or administrator.**

Any debtor, financial institution or other possessor of property shall deliver to the executor or administrator of a small estate all property of the estate in its possession unless the value of the property exceeds the amount permitted the small estate under the applicable provision of section 635.1. The possessor of property shall be exonerated from any liability for the delivery of property to the executor or administrator and shall not be responsible for its disposition after the delivery.

[C75, 77, 79, 81, § 635.4; 81 Acts, ch 199, § 5]

### **635.5 Transfer of stock or securities.**

The letters of appointment are authority for the transfer of stock or other securities to the persons entitled by law to the stock or other securities as stated to the transfer agent by the executor or administrator for the small estate. The transfer agent shall be exonerated from all liability for making the transfer.

[C75, 77, 79, 81, § 635.5; 81 Acts, ch 199, § 6]

### **635.6 Property of perishable nature.**

The executor or administrator of a small estate may sell personal property of a perishable nature and personal property for which there is a regularly established market without order of court.

[C75, 77, 79, 81, § 635.6; 81 Acts, ch 199, § 7]

### **635.7 Report and inventory excess value and termination.**

The executor or administrator is required to file the report and inventory for which provision is made in section 633.361. Nothing in sections 635.1 to 635.3 shall exempt the executor or administrator from complying with the requirements of section 422.27, 450.22, 450.58, 633.480, or 633.481. If the inventory and

report shows assets subject to the jurisdiction of this state which exceed the total gross value of the amount permitted the small estate under the applicable provision of section 635.1, the clerk shall terminate the letters issued under section 635.1 without prejudice to the rights of persons who delivered property as permitted under section 635.3. The executor or administrator shall then be required to petition for administration of the estate as provided in chapter 633.

[C75, 77, 79, 81, § 635.7; 81 Acts, ch 199, § 8]

89 Acts, ch 25, §3; 2003 Acts, ch 151, §57; 2004 Acts, ch 1120, §8

### **635.8 Closing by sworn statement.**

1. Unless an interested person petitions for administration of the estate on a basis other than for a small estate within four months after letters of administration for a small estate are issued, if those letters of administration are not terminated under the provisions of section 635.7, any property of the estate shall then be free of debts and charges, unless a claim has been filed as provided in section 635.13. The executor or administrator is personally liable for the payment of debts and charges against the estate to the extent the assets of the estate would be subject to the payment of those debts and charges under estate administration other than a small estate.

2. The executor or administrator shall file with the court a closing statement within six months from the date of issuance of the letters of appointment, and the closing statement shall be verified or affirmed under penalty of perjury, stating all of the following:

*a.* To the best knowledge of the person, the gross value of the estate subject to the jurisdiction of this state does not exceed the amount permitted the small estate under the applicable provision of section 635.1.

*b.* The estate has been fully administered, dispersed, and distributed to persons entitled to the estate and a description of the disbursement and distribution of the estate including an accurate description of all the real estate of which the decedent died seized, stating the nature and extent of the interest in the real estate and its disposition.

*c.* A copy of the closing statement has been sent to all distributees of the estate and to all known creditors and a full account in writing of the administration of the estate has been furnished to the distributees whose interests are affected.

3. If no actions or proceedings involving the estate are pending in the court sixty days after the closing statement is filed, the estate shall close and the clerk shall discharge the administrator or executor.

4. The closing statement shall include a statement as to the amount of fees paid for services rendered by the executor or administrator and the executor's or administrator's attorney in administration of the estate. The fees for the executor or administrator and the executor's or administrator's attorney shall not be in excess of the fees permitted by section 633.197.

5. A closing statement filed under this section has the same effect as final settlement of the estate under chapter 633.

[C75, 77, 79, 81, § 635.8; 81 Acts, ch 199, § 9]

89 Acts, ch 25, §4

### **635.9 Petition for administration on other basis.**

At any time within four months after letters of administration are issued for a small estate, any interested person may petition for appointment of an executor or administrator for administration of the estate other than as a small estate. In that event the clerk shall notify the person holding letters of appointment for administration of a small estate by ordinary mail not less than ten days before a hearing on the petition. The notice shall be directed to the executor or administrator of the small estate at the executor's or administrator's last known address as reflected in the petition filed under section 635.2 or the report and inventory filed under section 633.361, whichever is filed later.

[C75, 77, 79, 81, § 635.9; 81 Acts, ch 199, § 10]

89 Acts, ch 25, §5

#### **635.10 Effect of termination.**

If letters of administration of a small estate are terminated under section 635.7, the time period for estate proceedings under section 633.331 shall apply.

[C75, 77, 79, 81, § 635.10]

#### **635.11 Statement in notice by clerk.**

If a petition for administration of a small estate is filed at the time a will is admitted to probate without administration, the clerk's notice under section 633.305 shall state that a small estate administration is contemplated.

[C75, 77, 79, 81, § 635.11]

#### **635.12 Sale of property.**

The executor or administrator of a small estate may sell property of the estate if the sale is in compliance with sections 633.383 to 633.401 inclusive.

[81 Acts, ch 199, § 11]

#### **635.13 Notice claims.**

If a petition for administration of a small estate of a decedent is granted, the notice as provided in section 633.230 or section 633.304 shall indicate administration as a small estate. Creditors having claims against the estate must file them with the clerk within four months from the second publication of the notice. The notice has the same force and effect as in chapter 633.

[81 Acts, ch 199, § 12]

84 Acts, ch 1080, § 15; 89 Acts, ch 25, §6

#### **635.14 Minimum time before distribution.**

The executor or administrator shall not distribute property of the estate not exempt from execution, prior to four months after the issuance of the letters of appointment.

[81 Acts, ch 199, § 13]

89 Acts, ch 25, §7

