

633.356 Distribution of property by affidavit — very small estates.

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 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.

2. "Successor" means:

a. If the decedent died testate, the reasonably ascertainable beneficiary or beneficiaries who succeeded to the item of property under the decedent's will. For the purposes of [this subsection](#), the trustee of a trust created during the decedent's lifetime is a beneficiary under the decedent's will if the trust succeeds to the property under the decedent's will.

b. If the decedent died intestate, the reasonably ascertainable person or persons who succeeded to the property under the laws of intestate succession of this state.

c. If the decedent received medical assistance benefits from the state, the Iowa Medicaid agency that provided the benefits is a successor pursuant to [subsection 8](#).

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 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 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](#).

4. a. If the decedent had evidence of ownership of the property described in the affidavit and the holder of the property would have the right to require presentation of the evidence of ownership before the duty of the holder to pay, deliver, or transfer the property to the decedent would have arisen, the evidence of the ownership, if available, shall be presented with the affidavit to the holder of the decedent's property.

b. If the evidence of ownership is not presented to the holder of the property, the holder may require, as a condition for the payment, delivery, or transfer of the property, that the affiant provide the holder with a bond in a reasonable amount determined by the holder to

be sufficient to indemnify the holder against all liability, claims, demands, loss, damages, costs, and expenses that the holder may incur or suffer by reason of the payment, delivery, or transfer of the property. [This subsection](#) does not preclude the holder and the affiant from dispensing with the requirement that a bond be provided, and instead entering into an agreement satisfactory to the holder concerning the duty of the affiant to indemnify the holder.

c. Judgments rendered by any court in this state and mortgages belonging to a decedent whose personal property is being distributed pursuant to [this section](#) may, without prior order of court, be released, discharged, or assigned, in whole or in part, as to any property, and deeds may be executed in performance of real estate contracts entered into by the decedent, where an affidavit made pursuant to [subsection 3 or 8](#) is filed in the office of the county recorder of the county wherein any judgment, mortgage, or real estate contract appears of record.

5. Reasonable proof of the identity of each successor seeking distribution by virtue of the affidavit shall be provided to the satisfaction of the holder of the decedent's property.

6. a. If the requirements of [this section](#) are satisfied:

(1) The property described in the affidavit shall be paid, delivered, or transferred to or for the benefit of each successor.

(2) A transfer agent of a security described in the affidavit shall change registered ownership on the books of the corporation from the decedent to or for the benefit of each successor.

(3) The holder of the property may return the attached certified copy of the decedent's death certificate to the affiant.

b. If the holder of the decedent's property refuses to pay, deliver, or transfer any property or evidence thereof to or for the benefit of the successor within a reasonable time, a successor may recover the property or compel its payment, delivery, or transfer in an action brought for that purpose against the holder of the property. If an action is brought against the holder under [this subsection](#), the court shall award attorney fees to the person bringing the action if the court finds that the holder of the decedent's property acted unreasonably in refusing to pay, deliver, or transfer the property to or for the benefit of the successor as required by [this subsection](#).

7. a. If the requirements of [this section](#) are satisfied, receipt by the holder of the decedent's property of the affidavit under [subsection 3 or 8](#) constitutes sufficient acquittance for the payment of money, delivery of property, or transferring the registered ownership of property pursuant to [this section](#) and discharges the holder from any further liability with respect to the money or property. The holder may rely in good faith on the statements in the affidavit and has no duty to inquire into the truth of any statement in the affidavit.

b. If the requirements of [this section](#) are satisfied, the holder is not liable for any debt owed by the decedent by reason of paying money, delivering property, or transferring registered ownership of property pursuant to [this section](#). If an action is brought against the holder under [this section](#), the court shall award attorney fees to the holder if the court finds that the holder acted reasonably in paying, delivering, or transferring the property as required by [this section](#).

8. a. If an affidavit, executed under [this section](#) for a deceased distributee of an estate being administered in this state, is filed with the clerk of the district court in which the estate is being administered, the court shall direct the personal representative to pay the money or deliver the property to or for the benefit of each successor to the extent the court determines that the deceased distributee would have been entitled to money or property of the estate.

b. When the department of human services is entitled to money or property of a decedent pursuant to [section 249A.53, subsection 2](#), and no affidavit has been presented by a successor as defined in [subsection 2](#), paragraph "a" or "b", within ninety days of the date of the decedent's death, the funds in the account or other property, up to the amount of the claim of the department, shall be paid to the department upon presentation by the department or an entity designated by the department of an affidavit to the holder of the decedent's property. Such affidavit shall include the information specified in [subsection 3](#), except that the department may submit proof of payment of funeral expenses as verification

of the decedent's death instead of a certified copy of the decedent's death certificate. The amount of the department's claim shall also be included in the affidavit, which shall entitle the department to receive the funds as a successor. The department shall issue a refund within sixty days to any claimant with a superior priority pursuant to [section 633.425](#), if notice of such claim is given to the department, or to the entity designated by the department to receive notice, within one year of the department's receipt of funds. This paragraph shall apply to funds or property of the decedent transferred to the custody of the treasurer of state as unclaimed property pursuant to [chapter 556](#).

9. The procedure provided by [this section](#) may be used only if no administration of the decedent's estate is pending.

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 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 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 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.

[91 Acts, ch 36, §6; 2001 Acts, ch 140, §3 – 5; 2004 Acts, ch 1015, §2 – 6; 2006 Acts, ch 1104, §3; 2010 Acts, ch 1137, §6; 2013 Acts, ch 30, §261; 2013 Acts, ch 33, §5; 2014 Acts, ch 1021, §2; 2014 Acts, ch 1026, §128](#)

Section not amended; headnote revised