

## CHAPTER 635

## ADMINISTRATION OF SMALL ESTATES

Referred to in §602.8102(106), 633.22

635.1	When applicable.	635.11	Statement in notice by clerk.
635.2	Petition requirements.		Repealed by 2006 Acts, ch 1129, §15.
635.3	through 635.6 Repealed by 2007 Acts, ch 134, §26, 28.	635.12	Sale of property. Repealed by 2007 Acts, ch 134, §26, 28.
635.7	Report and inventory — value and conversion.	635.13	Notice — claims.
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635.9	and 635.10 Repealed by 2007 Acts, ch 134, §26, 28.		

**635.1 When applicable.**

When the gross value of the probate assets of a decedent subject to the jurisdiction of this state does not exceed one hundred thousand dollars, and upon a petition as provided in [section 635.2](#) of an authorized petitioner in accordance with [sections 633.227](#) and [633.228](#), or [section 633.290, subsection 1](#), paragraph “a” or “b”, the clerk shall issue letters of appointment for administration to the proposed personal representative named in the petition, if qualified to serve pursuant to [section 633.63](#) or upon court order pursuant to [section 633.64](#). Unless otherwise provided in [this chapter](#), the provisions of [chapter 633](#) apply to an estate probated pursuant to [this chapter](#).

[C75, 77, 79, 81, §635.1; 81 Acts, ch 199, §1; 82 Acts, ch 1204, §1 – 4]

89 Acts, ch 25, §1; 2007 Acts, ch 134, §21, 28; 2008 Acts, ch 1119, §34; 2013 Acts, ch 33, §8, 9

Referred to in §635.2, 635.7, 635.8

For future amendment to this section, effective July 1, 2020, see 2018 Acts, ch 1140, §2, 7, 10

**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.
3. The name and relationship of each heir so far as known to the petitioner in an intestate estate.
4. Whether the decedent died intestate or testate, and, if testate, the date the will was executed.

5. A statement that the probate assets of the decedent subject to the jurisdiction of this state do not have an aggregate gross value of more than the amount permitted under the provisions of [section 635.1](#) and the approximate amount of personal property and income for the purposes of setting a bond.

6. The name and address of the proposed personal representative.

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

89 Acts, ch 25, §2; 2007 Acts, ch 134, §22, 28; 2008 Acts, ch 1119, §35; 2017 Acts, ch 142, §1 – 3; 2018 Acts, ch 1140, §3, 6, 8

Referred to in §635.1

2017 amendments apply to petitions filed on or after July 1, 2017; 2017 Acts, ch 142, §3

2018 amendment applies July 1, 2018, to estates of decedents dying on or after July 1, 2018, and other estates opened previously and for which administration has not been completed as of July 1, 2018; 2018 Acts, ch 1140, §8

**635.3 through 635.6** Repealed by 2007 Acts, ch 134, §26, 28.

**635.7 Report and inventory — value and conversion.**

1. The personal representative is required to file the report and inventory for which provision is made in [section 633.361](#), including all probate and nonprobate assets. [This chapter](#) does not exempt the personal representative from complying with the requirements of [section 422.27](#), [450.22](#), [450.58](#), [633.480](#), or [633.481](#), and the administration of an estate whether converted to or from a small estate shall be considered one proceeding pursuant to [section 633.330](#).

2. The report and inventory shall separately specify which assets are probate assets subject to the jurisdiction of this state and clearly state their gross value and the sum thereof.

3. If the gross value of probate assets subject to the jurisdiction of this state exceeds the amount permitted for a small estate under [section 635.1](#), the estate shall be administered as provided in [chapter 633](#).

4. If the report and inventory in an estate administered pursuant to [chapter 633](#) separately specifies the gross value of the probate assets subject to the jurisdiction of this state does not exceed the amount permitted under [section 635.1](#), the estate shall be administered as a small estate upon the filing of a statement by the personal representative that the estate is a small estate.

5. If the personal representative files a report to convert the estate administration to or from a small estate based on the gross value of probate assets subject to the jurisdiction of this state, the clerk shall make the conversion without an order of the court.

6. Other interested parties may apply to convert proceedings from a small estate to a regular estate or from a regular estate to a small estate which the court may grant only upon good cause shown.

[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; 2007 Acts, ch 134, §23, 28; 2012 Acts, ch 1123, §30; 2018 Acts, ch 1140, §4, 6, 9

2018 amendment applies July 1, 2018, to estates of decedents dying on or after July 1, 2018; 2018 Acts, ch 1140, §9

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

1. The personal representative shall file with the court a closing statement and proof of service thereof to all interested parties within a reasonable time after the expiration of all times following all notices required in [chapter 633](#). The closing statement shall be verified or affirmed under penalty of perjury and shall include all of the following statements and information:

a. To the best knowledge of the personal representative, the gross value of the probate assets subject to the jurisdiction of this state does not exceed the amount permitted under [section 635.1](#).

b. The estate has been fully administered and will be distributed to persons entitled thereto if no objection is filed to the closing statement and the accounting and proposed distribution within thirty days after service thereof.

c. An accounting and proposed distribution explaining how and to whom the probate assets will be distributed 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.

d. Notice to all interested parties that the parties have thirty days from the date of service of the closing statement in which to request a hearing by filing an objection with the court.

e. A statement that all statutory requirements pertaining to taxes have been complied with, including whether federal estate tax due has been paid, whether a lien continues to exist for any federal estate tax, and whether inheritance tax was paid or a tax return was filed in this state.

f. A statement that all statutory requirements pertaining to claims have been complied with and a statement describing the resolution of all claims, including charges, and whether a lien continues to exist on any property as security for any claim.

g. The amount of fees to be paid to the personal representative and the personal representative's attorney with the appropriate documentation showing compliance with [subsection 4](#).

2. If no actions or proceedings involving the estate are pending in the court thirty days after service of the closing statement to all interested parties as provided in [section 633.40](#), the estate shall be distributed according to the closing statement.

3. The clerk shall close the estate without order of the court and the personal representative shall be discharged upon the earlier of either of the following:

a. Filing an affidavit of mailing or other proof of service of the closing statement and filing proof of asset distribution, including receipts and other evidence of disbursement.

b. Sixty days after the filing of the closing statement and an affidavit of mailing or other proof of service thereof.

4. The fees for the personal representative shall not exceed three percent of the gross value of the probate assets of the estate, unless the personal representative itemizes the personal representative's services to the estate. The personal representative's attorney shall be paid reasonable fees as approved by the court or as agreed to in writing by the personal representative and such writing shall be executed by the time of filing the report and inventory. All interested parties shall have the opportunity to object and request a hearing as to all fees reported in the closing statement.

5. If a closing statement is not filed within twelve months of the date of issuance of a letter of appointment, an interlocutory report shall be filed within such time period. Such report shall be provided to all interested parties at least once every six months until the closing statement has been filed unless excused by the court for good cause shown. The provisions of [section 633.473](#) requiring final settlement within three years shall apply to an estate probated pursuant to [this chapter](#). 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](#); [2007 Acts, ch 134, §24, 28](#); [2008 Acts, ch 1119, §36](#); [2009 Acts, ch 52, §11, 14](#); [2012 Acts, ch 1123, §31](#); [2018 Acts, ch 1140, §5, 6, 8](#)

2018 amendment applies July 1, 2018, to estates of decedents dying on or after July 1, 2018, and other estates opened previously and for which administration has not been completed as of July 1, 2018; [2018 Acts, ch 1140, §8](#)

**635.9 and 635.10** Repealed by [2007 Acts, ch 134, §26, 28](#).

**635.11 Statement in notice by clerk.** Repealed by [2006 Acts, ch 1129, §15](#).

**635.12 Sale of property.** Repealed by [2007 Acts, ch 134, §26, 28](#).

**635.13 Notice — claims.**

If a petition for administration of a small estate is granted, the notice as provided in [section 633.237](#), and either [sections 633.230 and 633.231](#) or [sections 633.304 and 633.304A](#) shall be given. Creditors having claims against the estate must file them with the clerk within the applicable time periods provided in such notices. The notice has the same force and effect as in [chapter 633](#). Claimants of the estate shall be interested parties of the estate as long as the claims are pending in the estate.

[[81 Acts, ch 199, §12](#)]

[84 Acts, ch 1080, §15](#); [89 Acts, ch 25, §6](#); [2007 Acts, ch 134, §25, 28](#)

**635.14 Minimum time before distribution.** Repealed by [2007 Acts, ch 134, §26, 28](#).