

MAR 22 1973

HOUSE FILE 453

Judiciary & Law Enforcement, *Pass 1/29*

House File 453  
Oakley, Chairman . Chairman *Jan 4/5*  
Hargrave

House File 453  
Judiciary— Logue  
Coleman, Chairman Howell  
Shaw  
Riley *2/4*

By MONROE, WYCKOFF, MIDDLESWART,  
SCHROEDER and CAFFREY  
(Miller of Des Moines, Kennedy,  
Potter, Coleman, Griffin,  
Blouin, DeKoster, Willits,  
McCartney, Junkins, Heying  
and Gallagher)

Passed House, Date 1-31-74 (267) Passed Senate, Date 5-20-74 (906)

Vote: Ayes 96 Nays 0 Vote: Ayes 47 Nays 0

*Passed per Senate amendment*  
Approved 4-8-74  
3-25-74 (1219)  
91-0

## A BILL FOR

1 An Act relating to administration of small estates.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION.

2 1. When the total value of the probate and nonprobate  
3 property of a decedent subject to the jurisdiction of this  
4 state including life insurance payable to the estate but not  
5 including other life insurance does not exceed five thousand  
6 dollars, if the decedent dies intestate and is survived by  
7 a spouse or children or both, or if the decedent leaves a  
8 last will and testament and that will is admitted to probate  
9 but there is no present administration and the only  
10 beneficiaries are a spouse or children or both, then upon  
11 the petition of the spouse or a child of the decedent who  
12 is a resident of the state of Iowa, the clerk shall issue  
13 to the petitioner letters of appointment of executor or  
14 administrator for administration of a small estate.

15 2. When the total value of the probate and nonprobate  
16 property of a decedent subject to the jurisdiction of this  
17 state including life insurance payable to the estate but not  
18 including other life insurance does not exceed five thousand  
19 dollars, if the decedent dies intestate without a surviving  
20 spouse or issue and with a surviving parent or parents, or  
21 if the decedent dies without a surviving spouse or issue and  
22 leaves a last will and testament and that will is admitted  
23 to probate but there is no present administration and the  
24 only beneficiaries are a surviving parent or parents, then  
25 upon the petition of a parent of the decedent who is a resi-  
26 dent of the state of Iowa the clerk shall issue to the peti-  
27 tioner letters of appointment as executor or administrator  
28 for administration of a small estate.

29 Sec. 2. NEW SECTION. The petition for administration  
30 of a small estate must contain the following:

- 31 1. The name, domicile and date of death of the decedent.
- 32 2. The name and address of the surviving spouse, if any,
- 33 the name and address of each child of the decedent, and the
- 34 name and address of each parent of the decedent, if the parent
- 35 is an heir or beneficiary of the decedent, unless none are

1 beneficiaries under the will of the decedent.

2 3. Whether a will has been admitted without present ad-  
3 ministration.

4 4. A statement that the probate and nonprobate property  
5 of the decedent subject to the jurisdiction of this state  
6 including life insurance payable to the estate but not in-  
7 cluding other life insurance does not have an aggregate gross  
8 value of more than the amount permitted under the provisions  
9 of section one (1) of this Act.

10 5. A statement that petitioner agrees to be personally  
11 liable for the payment of debts and charges against the es-  
12 tate to the extent the assets of the estate would be subject  
13 to the payment of those debts and charges under estate ad-  
14 ministration other than for a small estate.

15 6. A statement that petitioner agrees to account to any  
16 personal representative for all assets of the estate coming  
17 into the possession of petitioner, if a personal represen-  
18 tative is appointed for administration of the estate other  
19 than for a small estate.

20 Sec. 3. NEW SECTION. The letters of appointment of the  
21 personal representative of a small estate shall entitle the  
22 personal representative to possession of any property of the  
23 estate.

24 Sec. 4. NEW SECTION. Any debtor, financial institution,  
25 or other possessor of property shall deliver to the personal  
26 representative of a small estate all property in its posses-  
27 sion unless the value of the property exceeds five thousand  
28 dollars. The possessor of property shall be exonerated from  
29 any liability for the delivery of property to the personal  
30 representative and shall not be responsible for its disposi-  
31 tion after the delivery.

32 Sec. 5. NEW SECTION. The letters of appointment are  
33 authority for the transfer of stock or other securities to  
34 the persons entitled by law to the stock or other securities  
35 as stated to the transfer agent by the personal representa-

1 tive for the small estate. The transfer agent shall be ex-  
2 onerated from all liability for making the transfer.

3 Sec. 6. NEW SECTION. The personal representative of a  
4 small estate may sell personal property of a perishable na-  
5 ture and personal property for which there is a regularly  
6 established market without order of court. The personal  
7 representative has no other power to sell property of the  
8 estate.

9 Sec. 7. NEW SECTION. The personal representative is  
10 required to file the report and inventory for which provi-  
11 sion is made in section six hundred thirty-three point three  
12 hundred sixty-one (633.361) of the Code. Nothing in sections  
13 one (1) through three (3) of this Act shall exempt the per-  
14 sonal representative from complying with the requirements  
15 of section four hundred fifty point twenty-two (450.22) or  
16 the clerk from complying with the requirements of section  
17 six hundred thirty-three point four hundred eighty-one  
18 (633.481), of the Code. If the inventory and report shows  
19 assets subject to the jurisdiction of this state including  
20 life insurance payable to the estate but not including other  
21 life insurance which exceed the total gross value of five  
22 thousand dollars, the clerk shall terminate the letters issued  
23 under section one (1) of this Act without prejudice to the  
24 rights of persons who delivered property as permitted under  
25 section three (3) of this Act. The personal representative  
26 shall then be required to petition for administration of the  
27 estate.

28 Sec. 8. NEW SECTION. Unless an interested person peti-  
29 tions for administration of the estate on a basis other than  
30 for a small estate within one year after letters of adminis-  
31 tration for a small estate are issued, if those letters of  
32 administration are not terminated under the provisions of  
33 section seven (7) of this Act, any property of the estate  
34 shall then be free of debts and charges. However, the personal  
35 representative of the small estate shall not be exonerated

1 from debts and charges of the estate and shall be subject  
2 to personal liability to the extent provided in section two  
3 (2), subsection five (5) of this Act, for the period of time  
4 otherwise provided by law.

5 Sec. 9. NEW SECTION. At any time within one year after  
6 letters of administration are issued for a small estate, any  
7 interested person may petition for appointment of an executor  
8 or administrator for administration of the estate other than  
9 as a small estate. In that event the clerk shall notify the  
10 person holding letters of appointment for administration of  
11 a small estate by ordinary mail not less than ten days before  
12 a hearing on the petition. The notice shall be directed to  
13 the personal representative of the small estate at his last  
14 known address as reflected in the petition filed under sec-  
15 tion two (2) of this Act or the report and inventory filed  
16 under section six hundred thirty-three point three hundred  
17 sixty-one (633.361) of the Code, whichever is filed later.

18 Sec. 10. NEW SECTION. If letters of administration of  
19 a small estate are terminated under section seven (7) of this  
20 Act, the time period for estate proceedings under section  
21 six hundred thirty-three point three hundred thirty-one  
22 (633.331) of the Code shall apply.

23 Sec. 11. NEW SECTION. If a petition for administration  
24 of a small estate is filed at the time a will is admitted  
25 to probate without administration, the clerk's notice under  
26 section six hundred thirty-three point three hundred five  
27 (633.305) of the Code shall state that a small estate admin-  
28 istration is contemplated.

29 Sec. 12. Section six hundred thirty-three point thirty-  
30 one (633.31), subsection two (2), Code 1973, is amended by  
31 adding the following new paragraph:

32 NEW PARAGRAPH. For services performed in small estate  
33 administration ..... \$10.00

34 EXPLANATION

35 This bill provides procedures for administration of small

1 estates when the value of the decedent's property does not  
2 exceed \$5000, and when the only beneficiaries are the spouse  
3 and children, or the parents if there are no spouse or chil-  
4 dren. The personal representative for the small estate must  
5 agree to be personally liable for debts and charges against  
6 the estate. If subsequent proceedings show that the value  
7 of the decedent's property exceeds \$5000, regular estate pro-  
8 ceedings will be commenced or if an interested person peti-  
9 tions for regular administration it may be granted.

10 \_\_\_\_\_  
1 SENATE AMENDMENT TO HOUSE FILE 453

- 1 Amend House File 453 as passed by the House as
- 2 follows:
- 3 1. Page 2, line 5, by striking the words "five
- 4 thousand" and inserting in lieu thereof the words
- 5 "ten thousand".
- 6 2. Page 2, line 18, by striking the words "five
- 7 thousand" and inserting in lieu thereof the words
- 8 "ten thousand".
- 9 3. Page 3, line 26, by inserting after the word
- 10 "property" the words "of the estate".
- 11 4. Page 3, line 27, by striking the words "five
- 12 thousand" and inserting in lieu thereof
- 13 the words "ten thousand".
- 14 5. Page 4, lines 21 and 22, by striking the words
- 15 "five thousand" and inserting in lieu thereof the
- 16 words "ten thousand".

*Have concurred 3/25*

Received from the Senate  
March 22, 1974

S-2224

- 1 Amend House File 453 as follows:
- 2 1. Page 2, line 5, by striking the words "five thou-
- 3 sand" and inserting in lieu thereof the words "ten
- 4 thousand".
- 5 2. Page 2, line 18, by striking the words "five
- 6 thousand" and inserting in lieu thereof the words
- 7 "ten thousand".
- 8 3. Page 3, line 27, by striking the words "five
- 9 thousand" and inserting in lieu thereof the words
- 10 "ten thousand".
- 11 4. Page 4, lines 21 and 22, by striking the words
- 12 "five thousand" and inserting in lieu thereof the
- 13 words "ten thousand".

S-2224 Filed *Adopted 3/1 (709)* By GLUBA and DODERER  
February 21, 1974

jb/jw/3

S-2393

1 Amend House File 453, page 5, by adding the following  
2 section after line 33:

3 Sec. \_\_\_\_\_. Section six hundred thirty-three  
4 point two hundred eleven (633.211), subsections one  
5 (1) and three (3), Code 1973, are amended to read as  
6 follows:

7 1. ~~One-third~~ One-half in value of all the legal  
8 or equitable estates in real property possessed by the  
9 decedent at any time during the marriage, which have  
10 not been sold on execution or other judicial sale, and  
11 to which the surviving spouse has made no relinquish-  
12 ment of his right.

13 3. ~~One-third~~ One-half of all other personal  
14 property of the decedent which is not necessary for  
15 the payment of debts and charges.

S-2393 Filed *Revised out of order 3/10* By SCHABEN  
March 11, 1974

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S-2392

1 Amend House File 453, page 3, line 26, by inserting  
2 after the word "property" the words "of the  
3 estate".

S-2392 Filed *adopted 3/10* By RILEY  
March 11, 1974

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