

FILED MAR 23 1979

SENATE FILE 464

By COMMITTEE ON JUDICIARY

Approved 2/23 (p. 940)

Sub for 2.7.189

Passed Senate, Date 3-30-79 (p. 1024) Passed House, Date 4-20-79 (p. 424)

Vote: Ayes 45 Nays 0 Vote: Ayes 79 Nays 6

Repealed by Senate 3-12-80 (p. 516) 45-0
Approved April 21 1980
Repealed by House as amended by Sen. L. 4/2/80 (p. 1425) 88-3

A BILL FOR

1 An Act relating to the final report of the personal
2 representative of a decedent's estate.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. Section six hundred thirty-three point four
2 hundred seventy-seven (633.477), subsection ten (10), Code
3 1979, is amended to read as follows:

4 10. A statement as to whether or not all statutory require-
5 ments pertaining to taxes have been complied with and a
6 statement as to whether the federal estate tax due has been
7 paid and whether a lien continues to exist for any ~~deferred~~
8 federal estate tax.

9 Sec. 2. This Act is effective January first following
10 its enactment.

11 EXPLANATION

12 The bill is intended to clarify that the final report of
13 the personal representative of a decedent's estate must state
14 whether a lien exists for federal estate tax, because of the
15 federal provision allowing special use valuation on certain
16 property of the estate.

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HOUSE AMENDMENT TO SENATE FILE 464

S-3570

1 Amend Senate File 464 as passed by the Senate,
2 as follows:

3 1. Page 1, by inserting after line 8 the following:

4 "Sec. 2. Section six hundred thirty-three point
5 four hundred seventy-seven (633.477), Code 1979, is
6 amended by adding the following new subsection:

7 NEW SUBSECTION. An itemized statement of duties
8 and services performed corresponding to the time spent
9 or charged for such services and the amount of the
10 fee paid for such services, by the personal
11 representative and the personal representative's
12 attorney."

S-3570 FILED
APRIL 23, 1979

RECEIVED FROM THE HOUSE

Senate amended from S.340 & Concurred 2/12 (815)

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LSB 1247H-S 68
mg/rh/8

SENATE FILE 464

H-4022

1 Amend Senate File 464 as passed by the Senate,
2 as follows:
3 1. Page 1, by inserting after line 8 the following:
4 "Sec. 2. Section six hundred thirty-three point
5 four hundred seventy-seven (633.477), Code 1979, is
6 amended by adding the following new subsection:
7 NEW SUBSECTION. An itemized statement of duties
8 and services performed corresponding to the time spent
9 or charged for such services and the amount of the
10 fee paid for such services, by the personal
11 representative and the personal representative's
12 attorney.
13 Sec. 3. Section six hundred thirty-three point
14 one hundred ninety-seven (633.197), Code 1979, is
15 amended by striking the section and inserting in lieu
16 thereof the following:
17 633.197 COMPENSATION. Personal representatives
18 shall be allowed reasonable fees as determined by
19 the court as full compensation for ordinary services.
20 The fees shall be based upon a reasonable hourly rate.
21 Sec. 4. Section six hundred thirty-three point
22 one hundred ninety-eight (633.198), Code 1979, is
23 amended to read as follows:
24 633.198 ATTORNEY FEE. There shall also be allowed
25 and taxed as part of the costs of administration of
26 estates as an attorney's fee for the personal
27 representative's attorney, such reasonable fee as
28 may be determined by the court, for services rendered,
29 ~~but not in excess of the schedule of fees herein~~
30 ~~provided for personal representatives.~~ The attorney's
31 fee shall be based upon a reasonable hourly rate.
32 Sec. 5. Section six hundred thirty-five point
33 one (635.1), Code 1979, is amended to read as follows:
34 635.1 WHEN APPLICABLE.
35 1. When the total value of the probate and
36 nonprobate property of a decedent subject to the
37 jurisdiction of this state including life insurance
38 payable to the estate but not including other life
39 insurance, does not exceed ~~ten~~ fifty thousand dollars,
40 if the decedent dies intestate and is survived by
41 a spouse or children or both, or if the decedent
42 leaves a last will and testatment and that will is
43 admitted to probate but there is no present ad-
44 ministration and the only beneficiaries are a spouse
45 or children or both, then upon the petition of the
46 spouse or a child of the decedent who is a resident
47 of the state of Iowa, the clerk shall issue to the
48 petitioner letters of appointment of executor or
49 administrator for administration of a small estate.
50 2. When the total value of the probate and

1 nonprobate property of a decedent subject to the
2 jurisdiction of this state including life insurance
3 payable to the estate but not including other life
4 insurance, does not exceed ~~ten~~ fifty thousand dollars,
5 if the decedent dies intestate ~~without~~ a surviving
6 spouse or issue and with a surviving parent or parents,
7 or if the decedent dies without a surviving spouse
8 or issue and leaves a last will and testament and
9 that will is admitted to probate but there is no
10 present administration and the only beneficiaries
11 are a surviving parent or parents, then upon the
12 petition of a parent of the decedent who is a resident
13 of the state of Iowa the clerk shall issue to the
14 petitioner letters of appointment as executor or
15 administrator for administration of a small estate.

16 Sec. 6. Section six hundred thirty-five point
17 four (635.4), Code 1979, is amended to read as follows:

18 635.4 TURNING OVER ASSETS TO REPRESENTATIVE.
19 Any debtor, financial institution, or other possessor
20 of property shall deliver to the personal
21 representative of a small estate all property of the
22 estate in its possession unless the value of the
23 property exceeds ~~ten~~ fifty thousand dollars. The
24 possessor of property shall be exonerated from any
25 liability for the delivery of property to the personal
26 representative and shall not be responsible for its
27 disposition after the delivery.

28 Sec. 7. Section six hundred thirty-five point
29 seven (635.7), Code 1979, is amended to read as
30 follows:

31 635.7 REPORT AND INVENTORY--SHOWING GREATER GROSS
32 VALUE. The personal representative is required to
33 file the report and inventory for which provision
34 is made in section 633.361. Nothing in sections
35 635.1 to 635.3 shall exempt the personal representative
36 from complying with the requirements of section 450.22
37 or the clerk from complying with the requirements
38 of section 633.481. If the inventory and report shows
39 assets subject to the jurisdiction of this state
40 including life insurance payable to the estate but
41 not including other life insurance which exceed the
42 total gross value of ~~ten~~ fifty thousand dollars, the
43 clerk shall terminate the letters issued under section
44 635.1 without prejudice to the rights of persons who
45 delivered property as permitted under section 635.3.
46 The personal representative shall then be required
47 to petition for administration of the estate.

48 Sec. 8. Chapter six hundred thirty-five (635),
49 Code 1979, is amended by adding the following new
50 section:

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H-4022

1 NEW SECTION. TURNING OVER REAL PROPERTY TO
2 REPRESENTATIVE. After receipt of real property or
3 an instrument evidencing real property, pursuant to
4 section six hundred thirty-five point four (635.4)
5 of the Code, the personal representative of the small
6 estate shall file an affidavit with the county recorder
7 of each county in which a part of the real property
8 is located. The affidavit shall state all of the
9 following:

10 1. That the total value of the probate and
11 nonprobate property of the decedent subject to the
12 jurisdiction of this state including life insurance
13 payable to the estate but not including other life
14 insurance, does not exceed fifty thousand dollars.

15 2. The clerk of the district court has granted
16 the personal representative letters of appointment
17 as executor or administrator for administration of
18 a small estate.

19 3. No application or petition for the appointment
20 of an executor or administrator for administration
21 of the estate other than as a small estate, is pending
22 or has been granted in any jurisdiction.

23 4. The nature of the real property interest
24 delivered or transferred pursuant to section six
25 hundred thirty-five point four (635.4) of the Code.

26 5. The legal description of the delivered or
27 transferred real property.

28 6. A statement verified or affirmed under penalty
29 of perjury that the statements contained in the
30 affidavit are true to the best of the personal
31 representative's knowledge and belief.

32 Sec. 9. Chapter six hundred thirty-five (635),
33 Code 1979, is amended by adding the following new
34 section:

35 NEW SECTION. SMALL ESTATE ADMINISTRATION MANUAL.

36 1. The court administrator of the judicial
37 department shall cause the preparation and publication
38 of a small estate administration manual. The manual
39 shall be an informational pamphlet that is suitable
40 for use as a guide for the administration of small
41 estates under this chapter without attorneys. The
42 manual shall contain but shall not be limited to the
43 following:

44 a. Definitions of administration-related terms.

45 b. General information as to what probate and
46 nonprobate procedures are available, the transfer
47 of solely owned and joint property, lawyers and fees,
48 and forms.

49 c. A step-by-step approach on how to use the
50 administration procedures of this chapter.

Page Four
H-4022

1 d. Information concerning tax liability.
2 e. Informational material concerning estate
3 planning and wills.
4 2. The small estate administration manuals shall
5 be made available to the public upon request through
6 distribution by the clerks of the district courts.
7 The manuals shall not be sold for profit, but a
8 reasonable charge may be made for the cost of printing,
9 postage and handling.

10 Sec. 10. Section six hundred thirty-three point
11 twenty-six (633.26), Code 1979, is repealed."

12 2. Page 1, line 9, by striking the figure "2"
13 and inserting in lieu thereof the figure "11".

14 3. Page 1, line 10, by inserting after the word
15 "enactment." the following: "Sections one (1) through
16 eight (8) of this Act govern proceedings brought after
17 the effective date of this Act. However, sections
18 one (1) through eight (8) of this Act also govern
19 further proceedings then pending when in the opinion
20 of the court it is unjust not to apply the sections."

H-4022 FILED *Adopted as amended* BY RAPP of Black Hawk
APRIL 19, 1979 *By 4035 4/20 (p. 1652)*

SENATE FILE 464

H-4035

1 Amend amendment H-4022, to Senate File 464, as
2 passed by the Senate, as follows:

3 1. Page 1, by striking line 13 through page 4
4 line 20.

H-4035 FILED
APRIL 20, 1979

BY RAPP of Black Hawk

ADOPTED BY UNANIMOUS CONSENT (p. 1651)

SENATE FILE 464

S-3623

1 Amend the House amendment, S-3570, to Senate
 2 File 464 as follows:
 3 1. Page 1, by striking lines 7 through 12 and
 4 inserting in lieu thereof the following:
 5 " NEW SUBSECTION. Upon the request of the
 6 personal representative, a statement of services per-
 7 formed, time spent for such services, and responsibili-
 8 ties assumed by the personal representative's attorney
 9 for all estates of decedents dying after January 1,
 10 1980."

BY EARL M. WILLITS
 LUCAS DE KOSTER
 BOB RUSH
 JAMES BRILES
 JOANN ORR
 CLOYD ROBINSON

S-3623 FILED *Placed out of order*
 APRIL 25, 1979 *3/12 (p. 815)*

SENATE FILE 464

S-3627

1 Amend the House Amendment S-3570 to Senate
 2 File 464 as follows:
 3 1. Page 1, by striking lines 7 through 12 and
 4 inserting in lieu thereof the following:
 5 " NEW SUBSECTION. An itemized statement of
 6 services performed and the time spent performing
 7 such services by the personal representative's
 8 attorney for all estates of decedents dying after
 9 January 1, 1980. However, the requirement for an
 10 itemized statement may be waived by the personal
 11 representative."

BY C. W. HUTCHINS
 JULIA GENTLEMAN
 NORMAN RODGERS
 ARTHUR A. SMALL, JR.
 ARNE WALDSTEIN
 DALE L. TIEDEN

S-3627 FILED *Placed out of order*
 APRIL 25, 1979 *3/12 (p. 815)*

SENATE FILE 464

S-5006

1 Amend the House amendment S-3570, to Senate
 2 File 464 as follows:
 3 1. Page 1, by striking lines 7 through 12 and
 4 inserting in lieu thereof the following:
 5 "NEW SUBSECTION. Upon the request of the
 6 personal representative, an itemized statement of
 7 services performed by the personal representative's
 8 attorney for all estates of decedents dying after
 9 January 1, 1981."

S-5006 FILED *Placed out of order* BY RICHARD R. RAMSEY
 JANUARY 24, 1980 *2/12 (p. 815)*

SENATE 8
APRIL 25, 1979

SENATE FILE 464

S-3605

1 Amend the House amendment S-3570, to Senate
2 File 464 as follows:
3 1. Page 1, by striking lines 7 through 12
4 and inserting in lieu thereof the following:
5 " NEW SUBSECTION. An itemized statement of
6 services performed by the personal representative's
7 attorney."

S-3605 FILED & WITHDRAWN (p. 1251) BY EARL M. WILLITS
APRIL 24, 1979

SENATE FILE 464

S-3606

1 Amend the House amendment S-3570, to Senate
2 File 464 as follows:
3 1. Page 1, by striking lines 7 through 12
4 and inserting in lieu thereof the following:
5 " NEW SUBSECTION. An itemized statement of
6 services performed by the personal representative's
7 attorney for all estates of decedents dying after
8 January 1, 1980."

S-3606 FILED & WITHDRAWN (p. 1261) BY EARL M. WILLITS
APRIL 24, 1979

SENATE FILE 464

S-3608

1 Amend the House Amendment S-3570 to Senate
2 File 464 as follows:
3 1. Page 1, by striking lines 7 through 12 and
4 inserting in lieu thereof the following:
5 " NEW SUBSECTION. An itemized statement of
6 services performed and the time spent or charged
7 for such services by the personal representative's
8 attorney for all estates of decedents dying after
9 January 1, 1980."

S-3608 FILED BY ARTHUR A. SMALL, JR.
APRIL 24, 1979

Placed out of order 2/12/80 (p. 815)
SENATE FILE 464

S-3611

1 Amend the House amendment S-3570, to Senate
2 File 464 as follows:
3 1. Page 1, by striking lines 7 through 12
4 and inserting in lieu thereof the following:
5 " NEW SUBSECTION. Upon the request of the
6 personal representative, an itemized statement of
7 services performed by the personal representative's
8 attorney for all estates of decedents dying after
9 January 1, 1980."

BY EARL M. WILLITS
RICHARD R. RAMSEY
JAMES BRILES
CLOYD E. ROBINSON
JOANN ORR

S-3611 FILED *Placed out of order 3/12*
APRIL 24, 1979 *(p. 815)*

S-5340

1 Amend the House amendment, S-3570, to Senate
 2 File 464 as follows:
 3 1. Page 1, by striking lines 7 through 12 and
 4 inserting in lieu thereof the following:
 5 " NEW SUBSECTION. Upon the request of the
 6 personal representative, an itemization of services
 7 performed, time spent for such services, and respon-
 8 sibilities assumed by the personal representative's
 9 attorney for all estates of decedents dying after
 10 January 1, 1981. If the itemization is not included,
 11 there shall be set forth a statement that the personal
 12 representative was informed of the provisions of this
 13 subsection and did not request the itemization. "

S-5340 FILED
 MARCH 11, 1980

BY A. R. KUDART
 ARTHUR A. SMALL, JR.
 LUCAS J. DeKOSTER

Adopted 5/12 (p. 815)

SENATE AMENDMENT TO HOUSE AMENDMENT
 TO SENATE FILE 464

H-5521

1 Amend the House amendment, S-3570, to Senate
 2 File 464 as follows:
 3 1. Page 1, by striking lines 7 through 12 and
 4 inserting in lieu thereof the following:
 5 " NEW SUBSECTION. Upon the request of the
 6 personal representative, an itemization of services
 7 performed, time spent for such services, and respon-
 8 sibilities assumed by the personal representative's
 9 attorney for all estates of decedents dying after
 10 January 1, 1981. If the itemization is not included,
 11 there shall be set forth a statement that the personal
 12 representative was informed of the provisions of this
 13 subsection and did not request the itemization. "

H-5521 FILED
 MARCH 14, 1980

RECEIVED FROM THE SENATE

Have concurred 4/8 (p. 1424)

Sec. 3. This Act is effective January first following its enactment.

SENATE FILE 464

AN ACT

RELATING TO THE FINAL REPORT OF THE PERSONAL REPRESENTATIVE OF A DECEDENT'S ESTATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section six hundred thirty-three point four hundred seventy-seven (633.477), subsection ten (10), Code 1979, is amended to read as follows:

10. A statement as to whether or not all statutory requirements pertaining to taxes have been complied with and a statement as to whether the federal estate tax due has been paid and whether a lien continues to exist for any deferred federal estate tax.

Sec. 2. Section six hundred thirty-three point four hundred seventy-seven (633.477), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. Upon the request of the personal representative, an itemization of services performed, time spent for such services, and responsibilities assumed by the personal representative's attorney for all estates of decedents dying after January 1, 1981. If the itemization is not included, there shall be set forth a statement that the personal representative was informed of the provisions of this subsection and did not request the itemization.

TERRY E. BRANSTAD
President of the Senate

WILLIAM H. HARBOR
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 464, Sixty-eighth General Assembly.

FRANK J. STORK
Secretary of the Senate

Approved *April 21*, 1980

ROBERT D. RAY
Governor