

House Study Bill 501 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to probate and the administration of small
2 estates and including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 635.1, Code 2018, is amended to read as
2 follows:

3 **635.1 When applicable.**

4 When the gross value of the probate assets of a decedent
5 subject to the jurisdiction of this state does not exceed ~~one~~
6 two hundred thousand dollars, and upon a petition as provided
7 in [section 635.2](#) of an authorized petitioner in accordance with
8 sections 633.227 and [633.228](#), or section 633.290, subsection
9 1, paragraph "a" or "b", the clerk shall issue letters of
10 appointment for administration to the proposed personal
11 representative named in the petition, if qualified to serve
12 pursuant to [section 633.63](#) or upon court order pursuant to
13 section 633.64. Unless otherwise provided in [this chapter](#), the
14 provisions of [chapter 633](#) apply to an estate probated pursuant
15 to [this chapter](#).

16 Sec. 2. Section 635.7, Code 2018, is amended to read as
17 follows:

18 **635.7 Report and inventory — value and conversion.**

19 1. The personal representative is required to file the
20 report and inventory for which provision is made in section
21 633.361, including all probate and nonprobate assets. This
22 chapter does not exempt the personal representative from
23 complying with the requirements of [section 422.27](#), [450.22](#),
24 [450.58](#), [633.480](#), or [633.481](#), and the administration of an
25 estate whether converted to or from a small estate shall be
26 considered one proceeding pursuant to [section 633.330](#).

27 2. The report and inventory shall show the gross value of
28 probate assets subject to the jurisdiction of this state.

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

33 4. If the report and inventory in an estate probated
34 pursuant to [chapter 633](#) shows the gross value of the probate
35 assets subject to the jurisdiction of this state does not

1 exceed the amount permitted under section 635.1, the estate
2 shall be administered as a small estate upon the filing of a
3 statement by the personal representative that the estate is a
4 small estate.

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

10 ~~5.~~ 6. Other interested parties may apply to convert
11 proceedings from a small estate to a regular estate or from a
12 regular estate to a small estate which the court may grant only
13 upon good cause shown ~~with approval from the court.~~

14 Sec. 3. Section 635.8, Code 2018, is amended to read as
15 follows:

16 **635.8 Closing by sworn statement.**

17 1. The personal representative shall file with the court
18 a closing statement and proof of service thereof to all
19 interested parties within a reasonable time from the date of
20 issuance of the letters of appointment. The closing statement
21 shall be verified or affirmed under penalty of perjury
22 ~~stating~~ and shall include all of the following statements and
23 information:

24 *a.* To the best knowledge of the personal representative, the
25 gross value of the probate assets subject to the jurisdiction
26 of this state does not exceed the amount permitted under
27 section 635.1.

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

32 *c.* An accounting and proposed distribution of the estate
33 including an accurate description of all the real estate of
34 which the decedent died seized, stating the nature and extent
35 of the interest in the real estate and its disposition.

1 ~~d. A copy of the closing statement and a notice of an~~
2 ~~opportunity to object and request a hearing has been sent,~~
3 ~~as provided in section 633.40, to all interested parties~~ Notice
4 to all interested parties that the parties have thirty days
5 from the date of service of the closing statement in which to
6 request a hearing by filing an objection with the court.

7 e. A statement ~~as to whether or not~~ that all statutory
8 requirements pertaining to taxes have been complied with,
9 including whether federal estate tax due has been paid, whether
10 a lien continues to exist for any federal estate tax, and
11 whether inheritance tax was paid or a tax return was filed in
12 this state.

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

17 ~~f.~~ g. The amount of fees to be paid to the personal
18 representative and the personal representative's attorney
19 with the appropriate documentation showing compliance with
20 subsection 4.

21 2. If no actions or proceedings involving the estate are
22 pending in the court thirty days after service of the closing
23 statement to all interested parties as provided in section
24 633.40, the estate shall be distributed according to the
25 closing statement.

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

29 a. ~~The filing of an affidavit of mailing or other proof~~
30 ~~of service of the closing statement and a statement of asset~~
31 ~~distribution by the personal representative~~ Filing an affidavit
32 of mailing or other proof of service of the closing statement
33 and filing proof of asset distribution, including receipts and
34 other evidence of disbursement.

35 b. Sixty days after the filing of the closing statement and

1 an affidavit of mailing or other proof of service thereof.

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

12 5. If a closing statement is not filed within twelve
13 months of the date of issuance of a letter of appointment, an
14 interlocutory report shall be filed within such time period.
15 Such report shall be provided to all interested parties at
16 least once every six months until the closing statement has
17 been filed unless excused by the court for good cause shown.
18 The provisions of [section 633.473](#) requiring final settlement
19 within three years shall apply to an estate probated pursuant
20 to [this chapter](#). A closing statement filed under [this section](#)
21 has the same effect as final settlement of the estate under
22 chapter 633.

23 Sec. 4. APPLICABILITY. The following applies July 1,
24 2018, to estates opened under chapter 635 or converted from
25 administration under chapter 633 on or after July 1, 2018:

26 The section of this Act amending section 635.1.

27 Sec. 5. APPLICABILITY. The following applies July 1, 2018,
28 to estates being probated under chapter 635 on or after July
29 1, 2018:

30 The sections of this Act amending sections 635.7 and 635.8.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill relates to probate and the administration of small
35 estates.

1 The bill amends Code section 635.1 regarding the
2 applicability of Code chapter 635 to estates opened or
3 converted from administration under Code chapter 633 to include
4 estates as large as \$200,000, whereas currently the limit is
5 \$100,000. This portion of the bill applies July 1, 2018,
6 to estates opened under Code chapter 635 or converted from
7 administration under Code chapter 633 on or after July 1, 2018.

8 The bill amends Code section 635.7 (report and inventory
9 — value and conversion). The bill provides that if the
10 personal representative files a statement to convert the estate
11 administration to or from a small estate based on the gross
12 value of probate assets subject to the jurisdiction of this
13 state, the clerk shall make the conversion without an order of
14 the court. This portion of the bill applies July 1, 2018, to
15 estates being probated under Code chapter 635 on or after July
16 1, 2018.

17 The bill amends Code section 635.8 (closing by sworn
18 statement). The bill requires the personal representative to
19 file with the court a closing statement and proof of service
20 thereof to all interested parties. The bill requires the
21 following statements and informations to be included in the
22 closing statement: notice to all interested parties that the
23 parties have 30 days from the date of service of the closing
24 statement in which to request a hearing by filing an objection
25 with the court (replacing a reference to the notice procedures
26 in Code section 633.40); a statement that all statutory
27 requirements pertaining to claims have been complied with and a
28 statement describing the resolution of all claims, including
29 charges, and whether a lien continues to exist on any property
30 as security for any claim. The bill amends Code section
31 635.8(2) by requiring service of the closing statement "to all
32 interested parties as provided in Code section 633.40", prior
33 to distribution of the estate. The bill amends Code section
34 635.8(3) to require the clerk to close the estate without order
35 of the court. Finally, as one of the two options to close the

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1 estate, Code section 635.8(3)(a) is amended to specify that
2 receipts and other evidence of disbursement are required to be
3 included as proof of asset distribution. This portion of the
4 bill applies July 1, 2018, to estates being probated under Code
5 chapter 635 on or after July 1, 2018.