

Senate File 2285 - Introduced

SENATE FILE 2285
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3007)

(COMPANION TO HF 2125 BY
COMMITTEE ON JUDICIARY)

A BILL FOR

1 An Act relating to probate by the distribution of decedent's
2 property by affidavit, requiring certain affirmations in the
3 affidavit, and including an applicability provision.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 633.356, subsections 1, 3, and 10, Code
2 2018, are amended to read as follows:

3 1. When the gross value of the decedent's personal property
4 that would otherwise be distributed by will or intestate
5 succession is or has been, at any time since the decedent's
6 death, ~~twenty-five~~ fifty thousand dollars or less and there
7 is no real property or the real property passes to persons
8 exempt from inheritance tax as joint tenants with full rights
9 of survivorship, and if forty days have elapsed since the death
10 of the decedent, a successor as defined in [subsection 2](#) may, by
11 furnishing an affidavit prepared pursuant to subsection 3 or
12 8, and without procuring letters of appointment, do any of the
13 following with respect to one or more items of such personal
14 property:

15 a. Receive any item of tangible personal property of the
16 decedent.

17 b. Have any evidence of a debt, obligation, interest,
18 right, security, or chose in action belonging to the decedent
19 transferred.

20 c. Collect the proceeds from any life insurance policy or
21 any other item of property for which a beneficiary has not been
22 designated.

23 3. a. To collect money, receive tangible personal property,
24 or have evidences of intangible personal property transferred
25 under [this section](#), a successor shall furnish to the holder of
26 the decedent's property an affidavit under penalty of perjury
27 stating all of the following:

28 (1) The decedent's name, social security number, and date
29 and place of death.

30 (2) That at least forty days have elapsed since the death
31 of the decedent, as shown by an attached certified copy of the
32 death certificate of the decedent.

33 (3) That the gross value of the decedent's personal property
34 that would otherwise be distributed by will or intestate
35 succession is, or has been at any time since the decedent's

1 death, ~~twenty-five~~ fifty thousand dollars or less and there is
2 no real property or the real property passes to persons exempt
3 from inheritance tax as joint tenants with full rights of
4 survivorship.

5 (4) A general description of the property of the decedent
6 that is to be paid, transferred, or delivered to or for the
7 benefit of each successor.

8 (5) The name, address, tax identification number and
9 relationship to the decedent of each successor, and whether any
10 successor is under a legal disability.

11 (6) If applicable pursuant to [subsection 2](#), paragraph "a",
12 that the attached copy of the decedent's will is the last will
13 of the decedent and has been delivered to the office of a clerk
14 of the district court in accordance with Iowa law.

15 (7) That no persons other than the successors listed in the
16 affidavit have a right to the interest of the decedent in the
17 described property.

18 (8) That the affiant requests that the described property be
19 paid, delivered, or transferred to or for the benefit of each
20 successor.

21 (9) That no debt is owed to the department of human services
22 for reimbursement of Medicaid benefits; or if debt is owed,
23 that the debt will be paid to the extent of funds received
24 pursuant to the affidavit.

25 (10) That no inheritance or other taxes are owed to the
26 department of revenue, or if taxes are owed, that the taxes
27 will be paid to the extent of funds received pursuant to the
28 affidavit.

29 (11) That creditors, if any, will be paid to the extent of
30 funds received pursuant to the affidavit.

31 ~~(9)~~ (12) That the affiant affirms under penalty of perjury
32 that the affidavit is true and correct.

33 *b.* If there are two or more successors, any of the
34 successors may execute an affidavit under [this subsection](#).

35 10. Upon receipt of an affidavit under [subsection 3](#) and

1 reasonable proof under subsection 5 of the identity of each
2 successor seeking distribution by virtue of the affidavit, the
3 holder of the property shall disclose to the affiant whether
4 the value of the property held by the holder is, or has been at
5 any time since the decedent's death, ~~twenty-five~~ fifty thousand
6 dollars or less. An affidavit furnished for the purpose of
7 determining whether the value of the property is, or has been
8 at any time since the decedent's death, ~~twenty-five~~ fifty
9 thousand dollars or less need not contain the language required
10 under subsection 3, paragraph "a", subparagraph (3), but shall
11 state that the affiant reasonably believes that the gross value
12 of the decedent's personal property that would otherwise be
13 distributed by will or intestate succession is, or has been at
14 any time since the decedent's death, ~~twenty-five~~ fifty thousand
15 dollars or less and there is no real property or the real
16 property passes to persons exempt from inheritance tax as joint
17 tenants with full rights of survivorship.

18 Sec. 2. APPLICABILITY. This Act applies to estates of
19 decedents dying on or after July 1, 2018.

20 EXPLANATION

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

23 This bill amends probate Code section 633.356 to allow
24 for the distribution of decedent's property by affidavit in
25 estates as large as \$50,000. Under current law, only property
26 in estates that are \$25,000 or less are able to be distributed
27 by affidavit. The bill changes the affidavit requirement to
28 require the affiant to attest the property is valued at \$50,000
29 or less.

30 The bill also adds components to the affidavit that the
31 successor must furnish to the holder of the decedent's property
32 in order to collect money, receive tangible personal property,
33 or have evidences of intangible personal property transferred
34 under Code section 633.356. The affidavit must indicate that
35 there is no debt owed to the department of human services for

1 reimbursement of Medicaid benefits; or if there is, it will be
2 paid to the extent of funds received pursuant to the affidavit.
3 The affidavit must also indicate that there are no inheritance
4 or other taxes owed to the department of revenue, or if there
5 are, they will be paid to the extent of funds received pursuant
6 to the affidavit. Finally, the affidavit must indicate that
7 creditors, if any, will be paid to the extent of funds received
8 pursuant to the affidavit.

9 The bill applies to estates of decedents dying on or after
10 July 1, 2018.