

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 203
Committee Substitute Favorable 2/25/09

Short Title: Increase Small Estate Amount.

(Public)

Sponsors:

Referred to:

February 18, 2009

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE SIZE OF ESTATES THAT MAY BE ADMINISTERED
UNDER THE SMALL ESTATES PROVISIONS OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 28A-25-1(a) reads as rewritten:

"(a) When a decedent dies intestate leaving personal property, less liens and encumbrances thereon, not exceeding ~~ten thousand dollars (\$10,000)~~ thirty thousand dollars (\$30,000) in value, at any time after 30 days from the date of death, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action to a person claiming to be the public administrator appointed pursuant to G.S. 28A-12-1, or an heir or creditor of the decedent, not disqualified under G.S. 28A-4-2, upon being presented a certified copy of an affidavit filed in accordance with subsection (b) and made by or on behalf of the heir or creditor or the public administrator stating:

- (1) The name and address of the affiant and the fact that he or she is the public administrator or an heir or creditor of the decedent;
- (2) The name of the decedent and his residence at time of death;
- (3) The date and place of death of the decedent;
- (4) That 30 days have elapsed since the death of the decedent;
- (5) That the value of all the personal property owned by the estate of the decedent, less liens and encumbrances thereon, does not exceed ~~ten thousand dollars (\$10,000);~~ thirty thousand dollars (\$30,000);
- (6) That no application or petition for appointment of a personal representative is pending or has been granted in any jurisdiction;
- (7) The names and addresses of those persons who are entitled, under the provisions of the Intestate Succession Act, to the personal property of the decedent and their relationship, if any, to the decedent; and
- (8) A description sufficient to identify each tract of real property owned by the decedent at the time of his death.

In those cases in which the affiant is the surviving spouse and sole heir of the decedent, not disqualified under G.S. 28A-4-2, the property described in this subsection that may be collected pursuant to this section may exceed ~~ten thousand dollars (\$10,000)~~ thirty thousand dollars (\$30,000) in value but shall not exceed ~~twenty thousand dollars (\$20,000)~~ thirty thousand dollars (\$30,000) in value. In such cases, the affidavit shall state: (i) the name and address of the affiant and the fact that he or she is the surviving spouse and is entitled, under the



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1 provisions of the Intestate Succession Act, to all of the property of the decedent; (ii) that the
2 value of all of the personal property owned by the estate of the decedent, less liens and
3 encumbrances thereon, does not exceed ~~twenty thousand dollars (\$20,000);~~ thirty thousand
4 dollars (\$30,000); and (iii) the information required under subdivisions (2), (3), (4), (6), and (8)
5 of this subsection."

6 **SECTION 2.** G.S. 28A-25-1.1(a) reads as rewritten:

7 "(a) When a decedent dies testate leaving personal property, less liens and encumbrances
8 thereon, not exceeding ~~ten thousand dollars (\$10,000)~~ thirty thousand dollars (\$30,000) in
9 value, at any time after 30 days from the date of death, any person indebted to the decedent or
10 having possession of tangible personal property or an instrument evidencing a debt, obligation,
11 stock or chose in action belonging to the decedent shall make payment of the indebtedness or
12 deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or
13 chose in action to a person claiming to be the public administrator appointed pursuant to
14 G.S. 28A-12-1, a person named or designated as executor in the will, devisee, heir or creditor,
15 of the decedent, not disqualified under G.S. 28A-4-2, upon being presented a certified copy of
16 an affidavit filed in accordance with subsection (b) and made by or on behalf of the heir, the
17 person named or designated as executor in the will of the decedent, the creditor, the public
18 administrator, or the devisee, stating:

- 19 (1) The name and address of the affiant and the fact that he is the public
20 administrator, a person named or designated as executor in the will, devisee,
21 heir or creditor, of the decedent;
- 22 (2) The name of the decedent and his residence at time of death;
- 23 (3) The date and place of death of the decedent;
- 24 (4) That 30 days have elapsed since the death of the decedent;
- 25 (5) That the decedent died testate leaving personal property, less liens and
26 encumbrances thereon, not exceeding ~~ten thousand dollars (\$10,000)~~ thirty
27 thousand dollars (\$30,000) in value;
- 28 (6) That the decedent's will has been admitted to probate in the court of the
29 proper county and a duly certified copy of the will has been recorded in each
30 county in which is located any real property owned by the decedent at the
31 time of his death;
- 32 (7) That a certified copy of the decedent's will is attached to the affidavit;
- 33 (8) That no application or petition for appointment of a personal representative
34 is pending or has been granted in any jurisdiction;
- 35 (9) The names and addresses of those persons who are entitled, under the
36 provisions of the will, or if applicable, of the Intestate Succession Act, to the
37 property of the decedent; and their relationship, if any, to the decedent; and
- 38 (10) A description sufficient to identify each tract of real property owned by the
39 decedent at the time of his death.

40 In those cases in which the affiant is the surviving spouse, is entitled to all of the property
41 of the decedent, and is not disqualified under G.S. 28A-4-2, the property described in this
42 subsection that may be collected pursuant to this section may exceed ~~ten thousand dollars~~
43 ~~(\$10,000)~~ thirty thousand dollars (\$30,000) in value but shall not exceed ~~twenty thousand~~
44 ~~dollars (\$20,000)~~ thirty thousand dollars (\$30,000) in value. In such cases, the affidavit shall
45 state: (i) the name and address of the affiant and the fact that he or she is the surviving spouse
46 and is entitled, under the provisions of the decedent's will, or if applicable, of the Intestate
47 Succession Act, to all of the property of the decedent; (ii) that the decedent died testate leaving
48 personal property, less liens and encumbrances thereon, not exceeding ~~twenty thousand dollars~~
49 ~~(\$20,000);~~ thirty thousand dollars (\$30,000); and (iii) the information required under
50 subdivisions (2), (3), (4), (6), (7), (8), and (10) of this subsection."

1 **SECTION 3.** This act becomes effective October 1, 2009, and applies to estates of
2 persons dying on or after that date.