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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO PROBATE PRACTICE AND PROCEDURE -- SMALL ESTATES

Introduced By: Representatives Craven, McEntee, and McKiernan

Date Introduced: February 07, 2020

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 33-24-1 and 33-24-2 of the General Laws in Chapter 33-24  
2 entitled "Small Estates" are hereby amended to read as follows:

3 **33-24-1. Voluntary informal administration of small estates.**

4 (a) If a resident of Rhode Island dies leaving an estate consisting entirely of personal  
5 property the total value of which otherwise subject to being listed on a probate inventory pursuant  
6 to § 33-9-1, exclusive of tangible personal property of which the decedent was owner, does not  
7 exceed ~~fifteen thousand dollars (\$15,000)~~ twenty-five thousand dollars (\$25,000) in value, his or  
8 her surviving spouse, child, grandchild, parent, brother, sister, niece, nephew, aunt or uncle, or  
9 any interested party, if of full age and legal capacity and a resident of this state, may, after the  
10 expiration of thirty (30) days from the death of the decedent, provided no petition for letters  
11 testamentary or letters of administration has been filed with the probate court of the city or town  
12 in which the decedent resided, file with said probate court upon a form prescribed by the court a  
13 statement, verified by oath or affirmation containing:

14 (1) The name and residential address of the affiant,

15 (2) The name, residence and date of death of the deceased,

16 (3) The relationship of the affiant to the deceased,

17 (4) A schedule showing every asset known to the affiant titled solely in the decedent's  
18 name and all assets known or believed to be titled in the decedent's name as of the decedent's date  
19 of death, and the estimated value of each such asset,

1 (5) A statement that the affiant has undertaken to act as voluntary administrator of the  
2 estate of the deceased and will administer the same according to law, and apply the proceeds  
3 thereof in conformity with this section,

4 (6) The names and addresses known to the affiant of the persons who would take under  
5 the provisions of Rhode Island general laws § 33-1-10 in the case of intestacy.

6 (b) Upon presentation of such statement, accompanied by a certificate of the death of the  
7 deceased and payment of a fee of thirty dollars (\$30.00), the clerk of the probate court shall file  
8 these documents as a part of the permanent record of the court. Upon the payment of five dollars  
9 (\$5.00), the clerk of the probate court shall, if no other probate proceeding for administration of  
10 such estate is pending in said court, issue a certification of appointment of voluntary  
11 administrator, but only after such certification has been reviewed by the judge of the probate  
12 court. No hearing in the probate court shall be required as a condition for the issuance of the  
13 certification by the clerk of the probate court; provided, however, that the probate judge may  
14 require a hearing to take place in order to determine whether such certification should issue.

15 (c) Upon the presentation of a copy of such a certification of appointment by the clerk of  
16 the probate court, the tender of a proper receipt in writing and the surrender of any policy,  
17 passbook, note, certificate or other evidentiary instrument, a voluntary administrator may, as the  
18 legal representative of the deceased and his or her estate, receive payment of any debt or  
19 obligation in the nature of a debt, or delivery of any chattel or asset, scheduled in such statement.  
20 Payments and deliveries made under this section shall discharge the liability of the debtor, obligor  
21 or deliverer to all persons with respect to such debt, chattel, obligation or other asset unless, at the  
22 time of such payment or delivery, a written demand has been made upon such debtor, obligor or  
23 deliverer by a duly appointed executor or administrator.

24 (d) A voluntary administrator may sell any chattel so received and negotiate or assign any  
25 choice in action to convert the same to cash in a reasonable amount.

26 (e) A voluntary administrator shall, as far as possible out of the assets which come into  
27 his or her hands, first discharge the necessary expenses of the funeral and last sickness of the  
28 deceased and the necessary expenses of administration without fee for his or her services, and  
29 then pay the debts of the deceased in the order specified in Rhode Island general laws § 33-12-11  
30 and any other debts of the estate, and then distribute the balance, if any, to the surviving spouse,  
31 or, if there is no surviving spouse, to the persons and in the proportions prescribed by § 33-1-10.

32 (f) A voluntary administrator shall be liable as an executor in his or her own wrong to all  
33 persons aggrieved by his or her administration of the estate, and, if letters testamentary or letters  
34 of administration are at any time granted, shall be liable as such an executor to the rightful

1 executor or administrator.

2 **33-24-2. Administration of small estates where executor named in will -- Voluntary**  
3 **executors.**

4 (a) If a resident of Rhode Island dies leaving an estate that would otherwise be subject to  
5 being listed on a probate inventory pursuant to § 33-9-1, consisting entirely of personal property,  
6 the total value, exclusive of tangible personal property of which the decedent was owner, does not  
7 exceed ~~fifteen thousand dollars (\$15,000)~~ twenty-five thousand dollars (\$25,000) in value, and he  
8 or she leaves a will naming a person as executor, the named person, if of full age and legal  
9 capacity, may, (or, if the named person declines or is unable to serve, then any person named as  
10 alternate, or, if such alternate declines or is unable to serve, then the surviving spouse, child,  
11 grandchild, parent, brother, sister, niece, nephew, aunt or uncle, or any interested party, if of full  
12 age and legal capacity and a resident of this state), after the expiration of thirty (30) days from the  
13 death of the decedent, provided no petition for letters testamentary or letters of administration has  
14 been filed with the probate court of the city or town in which the decedent resided, file with said  
15 probate court upon a form prescribed by the court a statement, verified by oath or affirmation  
16 containing:

17 (1) The name and residential address of the affiant,

18 (2) The name, residence and date of death of the deceased,

19 (3) The relationship of the affiant to the deceased,

20 (4) A schedule showing every asset known to the affiant titled solely in the decedent's  
21 name and all assets known or believed to be titled in the decedent's name as of the decedent's date  
22 of death and the estimated value of each such asset,

23 (5) A statement that the affiant has undertaken to act as voluntary administrator of the  
24 estate of the deceased and will administer the same according to law, and apply the proceeds  
25 thereof in conformity with this section,

26 (6) The names and addresses known to the affiant of the persons who would take under  
27 the provisions of Rhode Island general laws § 33-1-10 in the case of intestacy, and

28 (7) The names and addresses known to the affiant of the persons who would take under  
29 the provisions of the will.

30 (b) The original of the will shall be filed with the above statement and if the executor  
31 resides outside the state he or she shall appoint a resident agent to represent him or her in the  
32 state.

33 (c) Upon presentation of such statement, accompanied by a certificate of the death of the  
34 deceased and payment of a fee of thirty dollars (\$30.00), the clerk of the probate court shall file

1 these documents as a part of the permanent record of the court. Upon the payment of five dollars  
2 (\$5.00), the clerk of the probate court shall, if no other probate proceeding for administration of  
3 such estate is pending in said court, issue a certification of appointment of executor, but only after  
4 such certification has been reviewed by the judge of the probate court. No hearing in the probate  
5 court shall be required as a condition for the issuance of the certification by the clerk of the  
6 probate court; provided, however, that the probate judge may require a hearing to take place in  
7 order to determine whether such certification should issue.

8 (d) Upon the presentation of a copy of such a certification of appointment by the clerk of  
9 the probate court, the tender of a proper receipt in writing and the surrender of any policy,  
10 passbook, note, certificate or other evidentiary instrument, a voluntary executor may, as the legal  
11 representative of the deceased and his or her estate, receive payment of any debt or obligation in  
12 the nature of a debt, or delivery of any chattel or asset, scheduled in such statement. Payments  
13 and deliveries made under this section shall discharge the liability of the debtor, obligor or  
14 deliverer to all persons with respect to such debt, chattel, obligation or other asset unless, at the  
15 time of such payment or delivery, a written demand has been made upon such debtor, obligor or  
16 deliverer by a duly appointed executor or administrator.

17 (e) A voluntary executor may sell any chattel so received and negotiate or assign any  
18 choice in action to convert the same to cash in a reasonable amount.

19 (f) A voluntary executor shall, as far as possible out of the assets which come into his or  
20 her hands, first discharge the necessary expenses of the funeral and last sickness of the deceased  
21 and the necessary expenses of administration without fee for his or her services, and then pay the  
22 debts of the deceased in the order specified in Rhode Island general laws § 33-12-11 and any  
23 other debts of the estate, and then distribute the balance, if any, according to the terms of the will,  
24 and should that prove impossible, the balance to the surviving spouse, or, if there is no surviving  
25 spouse, to the persons and in the proportions prescribed by § 33-1-10.

26 (g) A voluntary executor shall be liable as an executor in his or her own wrong to all  
27 persons aggrieved by his or her administration of the estate, and, if letters testamentary or letters  
28 of administration are at any time granted, shall be liable as such an executor to the rightful  
29 executor or administrator.

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO PROBATE PRACTICE AND PROCEDURE -- SMALL ESTATES

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1           This act would increase the value of a small estate from fifteen thousand dollars  
2 (\$15,000) to twenty-five thousand dollars (\$25,000).

3           This act would take effect upon passage.

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