

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE DRH80031-LL-73 (2/9)

Short Title: Increase Small Estate Amount.

(Public)

Sponsors: Representative Randleman.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO INCREASE THE SIZE OF ESTATES THAT MAY BE ADMINISTERED  
3 UNDER THE SMALL ESTATES PROVISIONS OF THE GENERAL STATUTES.

4 The General Assembly of North Carolina enacts:

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

6 "(a) When a decedent dies intestate leaving personal property, less liens and  
7 encumbrances thereon, not exceeding ~~ten thousand dollars (\$10,000)~~ twenty thousand dollars  
8 (\$20,000) in value, at any time after 30 days from the date of death, any person indebted to the  
9 decedent or having possession of tangible personal property or an instrument evidencing a debt,  
10 obligation, stock or chose in action belonging to the decedent shall make payment of the  
11 indebtedness or deliver the tangible personal property or an instrument evidencing a debt,  
12 obligation, stock or chose in action to a person claiming to be the public administrator  
13 appointed pursuant to G.S. 28A-12-1, or an heir or creditor of the decedent, not disqualified  
14 under G.S. 28A-4-2, upon being presented a certified copy of an affidavit filed in accordance  
15 with subsection (b) and made by or on behalf of the heir or creditor or the public administrator  
16 stating:

- 17 (1) The name and address of the affiant and the fact that he or she is the public  
18 administrator or an heir or creditor of the decedent;
- 19 (2) The name of the decedent and his residence at time of death;
- 20 (3) The date and place of death of the decedent;
- 21 (4) That 30 days have elapsed since the death of the decedent;
- 22 (5) That the value of all the personal property owned by the estate of the  
23 decedent, less liens and encumbrances thereon, does not exceed ~~ten thousand~~  
24 ~~dollars (\$10,000);~~ twenty thousand dollars (\$20,000);
- 25 (6) That no application or petition for appointment of a personal representative  
26 is pending or has been granted in any jurisdiction;
- 27 (7) The names and addresses of those persons who are entitled, under the  
28 provisions of the Intestate Succession Act, to the personal property of the  
29 decedent and their relationship, if any, to the decedent; and
- 30 (8) A description sufficient to identify each tract of real property owned by the  
31 decedent at the time of his death.

32 In those cases in which the affiant is the surviving spouse and sole heir of the decedent, not  
33 disqualified under G.S. 28A-4-2, the property described in this subsection that may be collected  
34 pursuant to this section may exceed ~~ten thousand dollars (\$10,000)~~ twenty thousand dollars  
35 (\$20,000) in value but shall not exceed ~~twenty thousand dollars (\$20,000)~~ thirty thousand



1 dollars (\$30,000) in value. In such cases, the affidavit shall state: (i) the name and address of  
2 the affiant and the fact that he or she is the surviving spouse and is entitled, under the  
3 provisions of the Intestate Succession Act, to all of the property of the decedent; (ii) that the  
4 value of all of the personal property owned by the estate of the decedent, less liens and  
5 encumbrances thereon, does not exceed ~~twenty thousand dollars (\$20,000);~~ thirty thousand  
6 dollars (\$30,000); and (iii) the information required under subdivisions (2), (3), (4), (6), and (8)  
7 of this subsection."

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

9 "(a) When a decedent dies testate leaving personal property, less liens and encumbrances  
10 thereon, not exceeding ~~ten thousand dollars (\$10,000)~~ twenty thousand dollars (\$20,000) in  
11 value, at any time after 30 days from the date of death, any person indebted to the decedent or  
12 having possession of tangible personal property or an instrument evidencing a debt, obligation,  
13 stock or chose in action belonging to the decedent shall make payment of the indebtedness or  
14 deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or  
15 chose in action to a person claiming to be the public administrator appointed pursuant to  
16 G.S. 28A-12-1, a person named or designated as executor in the will, devisee, heir or creditor,  
17 of the decedent, not disqualified under G.S. 28A-4-2, upon being presented a certified copy of  
18 an affidavit filed in accordance with subsection (b) and made by or on behalf of the heir, the  
19 person named or designated as executor in the will of the decedent, the creditor, the public  
20 administrator, or the devisee, stating:

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

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

1 ~~(\$20,000);~~ thirty thousand dollars (\$30,000); and (iii) the information required under  
2 subdivisions (2), (3), (4), (6), (7), (8), and (10) of this subsection."

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