

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 67

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AN ACT to amend the Indiana Code concerning probate.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 29-1-8-1, AS AMENDED BY P.L.56-2020, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) Forty-five (45) days after the death of a decedent and upon being presented an affidavit that complies with subsection (b), a person:

- (1) indebted to the decedent; or
- (2) having possession of personal property or an instrument evidencing a debt, an obligation, a stock, or a chose in action belonging to the decedent;

shall make payment of the indebtedness or deliver the personal property or the instrument evidencing a debt, an obligation, a stock, or a chose in action to a distributee claiming to be entitled to payment or delivery of property of the decedent as alleged in the affidavit.

(b) The affidavit required by subsection (a) must be an affidavit made by or on behalf of the distributee and must state the following:

- (1) That the value of the gross probate estate, wherever located, (less liens, encumbrances, and reasonable funeral expenses) does not exceed:

- (A) twenty-five thousand dollars (\$25,000), for the estate of an individual who dies before July 1, 2006; ~~and~~
- (B) fifty thousand dollars (\$50,000), for the estate of an individual who dies after June 30, 2006, **and before July 1,**

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**2022; and**

**(C) one hundred thousand dollars (\$100,000), for the estate of an individual who dies after June 30, 2022.**

(2) That forty-five (45) days have elapsed since the death of the decedent.

(3) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction.

(4) The name and address of each distributee that is entitled to a share of the property and the part of the property to which each distributee is entitled.

(5) That the affiant has notified each distributee identified in the affidavit of the affiant's intention to present an affidavit under this section.

(6) That the affiant is entitled to payment or delivery of the property on behalf of each distributee identified in the affidavit.

(c) If a motor vehicle or watercraft (as defined in IC 9-13-2-198.5) is part of the estate, nothing in this section shall prohibit a transfer of the certificate of title to the motor vehicle if five (5) days have elapsed since the death of the decedent and no appointment of a personal representative is contemplated. A transfer under this subsection shall be made by the bureau of motor vehicles upon receipt of an affidavit containing a statement of the conditions required by subsection (b)(1) and (b)(6). The affidavit must be duly executed by the distributees of the estate.

(d) A transfer agent of a security shall change the registered ownership on the books of a corporation from the decedent to a distributee upon the presentation of an affidavit as provided in subsection (a).

(e) For the purposes of subsection (a), an insurance company that, by reason of the death of the decedent, becomes obligated to pay a death benefit to the estate of the decedent is considered a person indebted to the decedent.

(f) For purposes of subsection (a), property in a safe deposit box rented by a decedent from a financial institution organized or reorganized under the law of any state (as defined in IC 28-2-17-19) or the United States is considered personal property belonging to the decedent in the possession of the financial institution.

(g) For purposes of subsection (a), a distributee has the same rights as a personal representative under IC 32-39 to access a digital asset (as defined in IC 32-39-1-10) of the decedent.

SECTION 2. IC 29-1-8-3, AS AMENDED BY P.L.56-2020,

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SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) As used in this section, "fiduciary" means:

- (1) the personal representative of an unsupervised estate; or
- (2) a person appointed by a court under this title to act on behalf of the decedent or the decedent's distributees.

(b) Except as otherwise provided in this section, if the value of a decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of:

- (1) an amount equal to:
  - (A) twenty-five thousand dollars (\$25,000), for the estate of an individual who dies before July 1, 2006; ~~and~~
  - (B) fifty thousand dollars (\$50,000), for the estate of an individual who dies after June 30, 2006, **and before July 1, 2022; and**
  - (C) **one hundred thousand dollars (\$100,000), for the estate of an individual who dies after June 30, 2022;**
- (2) the costs and expenses of administration; and
- (3) reasonable funeral expenses;

the fiduciary, without giving notice to creditors, may file a closing statement as provided in section 4 of this chapter and disburse and distribute the estate to the persons entitled to it, as provided in section 4 of this chapter.

(c) If an estate described in subsection ~~(a)~~ **(b)** includes real property, an affidavit may be recorded in the office of the recorder in the county in which the real property is located. The affidavit must contain the following:

- (1) The legal description of the real property.
- (2) The following statements:
  - (A) If the individual dies after June 30, 2006, **and before July 1, 2022**, the following statement: "It appears that the decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of the following: fifty thousand dollars (\$50,000), the costs and expenses of administration, and reasonable funeral expenses."
  - (B) If the individual dies before July 1, 2006, the following statement: "It appears that the decedent's gross probate estate, less liens and encumbrances, does not exceed the sum of the following: twenty-five thousand dollars (\$25,000), the costs and expenses of administration, and reasonable funeral expenses."
  - (C) **If the individual dies after June 30, 2022, the following statement: "It appears that the decedent's gross probate**



**estate, less liens and encumbrances, does not exceed the sum of the following: one hundred thousand dollars (\$100,000), the costs and expenses of administration, and reasonable funeral expenses."**

(3) The name of each person entitled to at least a part interest in the real property as a result of a decedent's death, the share to which each person is entitled, and whether the share is a divided or undivided interest.

(4) A statement which explains how each person's share has been determined.

SECTION 3. IC 29-1-8-4, AS AMENDED BY P.L.56-2020, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. (a) As used in this section, "fiduciary" means:

- (1) the personal representative of an unsupervised estate; or
- (2) a person appointed by a court under this title to act on behalf of the decedent or the decedent's distributees.

(b) Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a fiduciary may close an estate administered under the summary procedures of section 3 of this chapter by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:

(1) to the best knowledge of the fiduciary, the value of the gross probate estate, less liens and encumbrances, did not exceed the sum of:

(A) twenty-five thousand dollars (\$25,000), for the estate of an individual who dies before July 1, 2006, ~~and~~ fifty thousand dollars (\$50,000), for the estate of an individual who dies after June 30, 2006, **and before July 1, 2022, and one hundred thousand dollars (\$100,000), for the estate of an individual who dies after June 30, 2022;**

(B) the costs and expenses of administration; and

(C) reasonable funeral expenses;

(2) the fiduciary has fully administered the estate by disbursing and distributing it to the persons entitled to it; and

(3) the fiduciary has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom the fiduciary is aware and has furnished a full accounting in writing of the administration to the distributees whose interests are affected.

(c) If no actions, claims, objections, or proceedings involving the fiduciary are filed in the court within two (2) months after the closing



statement is filed, the fiduciary may immediately disburse and distribute the estate free from claims to the persons entitled to the disbursement and distribution. After disbursing and distributing an estate, the fiduciary must file a report in the court of the disbursement and distribution. The appointment of the personal representative or the duties of the fiduciary, as applicable, shall terminate upon the filing of the report.

(d) A closing statement filed under this section has the same effect as one (1) filed under IC 29-1-7.5-4.

(e) A copy of any affidavit recorded under section 3(c) of this chapter must be attached to the closing statement filed under this section.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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