

HB 1140 - AS INTRODUCED

2022 SESSION

22-2220

04/05

HOUSE BILL ***1140***

AN ACT relative to probate procedures for small estates.

SPONSORS: Rep. Terry, Belk. 5; Rep. Silber, Belk. 2; Rep. Sylvia, Belk. 6; Rep. Potucek, Rock. 6; Rep. Hunt, Ches. 11; Rep. Alliegro, Graf. 7; Sen. French, Dist 7; Sen. Giuda, Dist 2

COMMITTEE: Judiciary

ANALYSIS

This bill establishes a procedure for the voluntary informal administration of small estates.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to probate procedures for small estates.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Administration of Small Estates; Informal Administration of Small Estates.
2 Amend RSA 553 by inserting after section 31-a the following new section:

3 553:31-b Informal Administration of Small Estates.

4 I. If a resident of New Hampshire dies leaving an estate consisting entirely of personal
5 property the total value of which, exclusive of tangible personal property of which the decedent was
6 owner, does not exceed \$25,000 in value, his or her surviving spouse, child, grandchild, parent,
7 brother, sister, niece, nephew, aunt or uncle, or any interested party, if of full age and legal capacity
8 and a resident of this state, may, after the expiration of 30 days from the death of the decedent,
9 provided no petition for letters testamentary or letters of administration has been filed with the
10 probate court of the city or town in which the decedent resided, file with said probate court upon a
11 form prescribed by the court a statement, verified by oath or affirmation containing:

12 (a) The name and residential address of the affiant,

13 (b) The name, residence, and date of death of the deceased,

14 (c) The relationship of the affiant to the deceased,

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

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

21 (f) The names and addresses known to the affiant of the persons who would take under
22 the provisions of New Hampshire law in the case of intestacy.

23 II. Upon presentation of such statement, accompanied by a certificate of the death of the
24 deceased and payment of a fee of \$30, the clerk of the probate court shall file these documents as a
25 part of the permanent record of the court. Upon the payment of \$5, the clerk of the probate court
26 shall, if no other probate proceeding for administration of such estate is pending in said court, issue
27 a certification of appointment of voluntary administrator, but only after such certification has been
28 reviewed by the judge of the probate court. No hearing in the probate court shall be required as a
29 condition for the issuance of the certification by the clerk of the probate court; provided, however,
30 that the probate judge may require a hearing to take place in order to determine whether such
31 certification should issue.

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

10 IV. A voluntary administrator may sell any chattel so received and negotiate or assign any
11 choice in action to convert the same to cash in a reasonable amount.

12 V. A voluntary administrator shall, as far as possible out of the assets which come into his
13 or her hands, first discharge the necessary expenses of the funeral and last sickness of the deceased
14 and the necessary expenses of administration without fee for his or her services, and then pay the
15 debts of the deceased in the and any other debts of the estate, and then distribute the balance, if
16 any, to the surviving spouse, or, if there is no surviving spouse, to the persons and in the proportions
17 prescribed in New Hampshire law.

18 VI. A voluntary administrator shall be liable as an executor in his or her own wrong to all
19 persons aggrieved by his or her administration of the estate, and, if letters testamentary or letters of
20 administration are at any time granted, shall be liable as such an executor to the rightful executor or
21 administrator.

22 2 Effective Date. This act shall take effect 60 days after its passage.