

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1449

By: Representative Hawks

For An Act To Be Entitled

AN ACT TO CREATE "CARMACK'S LAW"; CONCERNING THE ABILITY OF A DISTRIBUTEE OF A SMALL ESTATE TO MAKE BANK DEPOSITS ON BEHALF OF A DECEASED PERSON'S ESTATE; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE "CARMACK'S LAW"; AND CONCERNING THE ABILITY OF A DISTRIBUTEE OF A SMALL ESTATE TO MAKE BANK DEPOSITS ON BEHALF OF A DECEASED PERSON'S ESTATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Title.

This act shall be known and may be cited as "Carmack's Law".

SECTION 2. Arkansas Code § 28-41-101(a), concerning the collection of small estates by a distributee, is amended to read as follows:

(a)(1) The distributee of an estate may collect and distribute the assets of an estate under this section without the appointment of a personal representative when:

~~(1)(A)~~ No petition for the appointment of a personal representative is pending or has been granted;

~~(2)(B)~~ Forty-five (45) days have elapsed since the death of the decedent;

~~(3)(A)(C)(i)~~ The value, less encumbrances, of all property owned by the decedent at the time of death does not exceed one hundred



thousand dollars (\$100,000).

~~(B)(ii)~~ When calculating the value of all property owned by the decedent under ~~subdivision (a)(3)(A)~~ subdivision (a)(1)(C)(i) of this section, the value of the decedent's homestead and the value of any statutory allowances for the benefit of a spouse or minor children, if any, shall be excluded;

~~(4)(D)~~ One (1) or more of the distributees files an affidavit with the probate clerk of the circuit court of the county of proper venue for administration stating:

~~(A)(i)~~ That there are no unpaid claims or demands against the decedent or his or her estate, that the Department of Human Services furnished no federal or state benefits to the decedent, or, that if such benefits have been furnished, the department has been reimbursed in accordance with state and federal laws and regulations;

~~(B)(ii)~~ An itemized description and valuation of the personal property and a legal description and valuation of any real property of the decedent, including the homestead;

~~(C)(iii)~~ The names and addresses of persons having possession of the personal property and the names and addresses of any persons possessing or residing on any real property of the decedent; and

~~(D)(iv)~~ The names, addresses, and relationship to the decedent of the persons entitled to and who will receive the property; and

~~(5)(E)~~ A copy of the affidavit certified by the clerk is furnished to any person owing any money, having custody of any property, or acting as registrar or transfer agent of any evidence of interest, indebtedness, property, or right.

(2) The distributee of an estate may open a checking account or savings account in a bank within this state in the name of the estate and on behalf of the estate without filing a petition for probate and administration or obtaining a court order granting a petition for probate and administration in accordance with § 28-40-101 et seq.