

# SB3212



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3212

Introduced 2/6/2024, by Sen. Javier L. Cervantes

### SYNOPSIS AS INTRODUCED:

755 ILCS 5/Art. XXVA heading new  
755 ILCS 5/25a-1 new

Amends the Probate Act of 1975. Creates a Small Estate Affidavit to transfer real property if the fair market value does not exceed \$350,000. Requires notice to interested persons as defined by the Act and any personal representatives of the decedent. Exempts property was owned by the decedent in joint tenancy, tenancy by the entirety, in which the decedent had a life other interest terminable upon the decedent's death, or was governed by a transfer on death instrument as authorized by Illinois law.

LRB103 36597 JRC 66706 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Probate Act of 1975 is amended by adding  
5 Article XXVA as follows:

6 (755 ILCS 5/Art. XXVA heading new)

7 ARTICLE XXVA

8 REAL PROPERTY OF SMALL VALUE

9 (755 ILCS 5/25a-1 new)

10 Sec. 25a-1. Payment or delivery of real property of small  
11 value of decedent upon affidavit.

12 (a) No sooner than 6 months from the death of a decedent, a  
13 interested person or persons, as defined by Section 1-2.11 of  
14 this Act, may file in the circuit court in the county in which  
15 the decedent was domiciled at the time of death, or if the  
16 decedent was not domiciled in Illinois at the time of death,  
17 then in any county in which real property of the decedent is  
18 located, an affidavit stating all of the following:

19 Real Property of Small Value Affidavit

20 I, (name of affiant), on oath state:

21 1.(a) My post office address is: .....

1           (b) My residence address is: .....

2           (c) I understand that, if I am an out-of-state  
3 resident, I submit myself to the jurisdiction of Illinois  
4 courts for all matters related to the preparation and use  
5 of this affidavit. My agent of process in Illinois is:

6                   NAME .....

7                   ADDRESS.....

8                   CITY .....

9                   TELEPHONE (IF ANY) .....

10           I understand that if no person is named above as my  
11 agent for service or, if for any reason, service on the  
12 named person cannot be effectuated, the clerk of the  
13 circuit court of the county in which this action is filed  
14 is recognized by Illinois law as my agent for service of  
15 process.

16           2. The decedent's name is .....

17           3. At least 6 months have elapsed since the death of  
18 the decedent as shown in a certified copy of decedent's  
19 death certificate attached to this affidavit.

20           4. The decedent's place of residence immediately  
21 before his or her death was .....

22           5. The name and address of each person serving as  
23 guardian of the estate of the decedent at the time of the  
24 decedent's death, so far as known to the affiant.

25           6. The fair market value of the real property in the  
26 decedent's estate located in Illinois, as shown by the

1 inventory and appraisal attached to this affidavit, does  
2 not exceed \$350,000.

3 7. At the time of the decedent's death, the property  
4 was not owned by the decedent in joint tenancy, tenancy by  
5 the entirety, or in which the decedent had a life other  
6 interest terminable upon the decedent's death, or was  
7 governed by a transfer on death instrument as authorized  
8 by Illinois law.

9 8. Either of the following, as appropriate:

10 A. No letters of office are now outstanding on the  
11 decedent's estate and no petition for letters is  
12 contemplated or pending in Illinois or in other  
13 jurisdiction to my knowledge; or

14 B. The decedent's personal representative has  
15 consented in writing to use of the procedure provided  
16 by this chapter.

17 9. Funeral expenses, expenses of last illness, and all  
18 unsecured debts of the decedent have been paid.

19 10. The affiant declares under penalty of perjury  
20 under the laws of the State of Illinois that the foregoing  
21 is true and correct.

22 (c) For each person executing the affidavit, the affidavit  
23 shall contain a notary public's certificate of acknowledgment  
24 identifying the person.

25 (d) An inventory and appraisal of the decedent's real

1 property in Illinois shall be attached to the affidavit.

2 (e) The affiant shall deliver via mail or electronically a  
3 copy of the affidavit and attachments to all interested  
4 persons and personal representatives as required by this  
5 Section.

6 (f) The affiant shall petition the court with notice to  
7 all intended persons and personal representatives requesting  
8 an order transferring the real property.