

By: Senator(s) Doxey

To: Judiciary, Division A

SENATE BILL NO. 2480

1 AN ACT TO PROVIDE FOR THE PAYMENT OF DELIVERY OF CERTAIN
2 SMALL ESTATES OF A DECEDENT BY AFFIDAVIT; TO AMEND SECTION
3 91-7-147, MISSISSIPPI CODE OF 1972, CONCERNING NOTICE TO CREDITORS
4 BY PUBLICATION TO CONFORM; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** (1) **Payment or delivery of small estate of**

7 **decedent upon affidavit.** When any person or corporation (a)
8 indebted to or holding personal estate of a decedent, (b)
9 controlling the right of access to decedent's safe-deposit box or
10 (c) acting as registrar or transfer agent of any evidence of
11 interest, indebtedness, property or right is furnished with a
12 small estate affidavit in substantially the form set forth in
13 subsection (2) of this section, that person or corporation shall
14 pay the indebtedness, grant access to the safe-deposit box,
15 deliver the personal estate or transfer or issue the evidence of
16 interest, indebtedness, property or right to persons and in the
17 manner specified in paragraph X of the affidavit set forth in this
18 section or to an agent appointed as hereinafter set forth.

19 (2) **Small estate affidavit.** The small estate shall be in
20 substantially the following form:

21 "I, _____ (name of affiant) _____, on oath state:

22 I.

23 (a) My post office address is: _____;

24 (b) My residence address is: _____; and

25 (c) I understand that, if I am an out-of-state
26 resident, I submit myself to the jurisdiction of Mississippi
27 courts for all matters related to the preparation and use of this
28 affidavit. My agent for service of process in Mississippi is:

29 NAME _____

30 ADDRESS _____

31 CITY _____

32 TELEPHONE (IF ANY) _____

33 I understand that if no person is named above as my agent for
34 service or, if for any reason, service on the named person cannot
35 be effectuated, the Clerk of the Chancery Court of _____
36 County, Mississippi, is recognized by Mississippi law as my agent
37 for service of process.

38 II.

39 The decedent's name is: _____

40 III.

41 The date of the decedent's death was _____, and I have
42 attached a copy of the death certificate hereto.

43 IV.

44 The decedent's place of residence immediately before his
45 death was _____.

46 V.

47 No letters testamentary or letters of administration are now
48 outstanding on the decedent's estate and no petition for letters
49 is contemplated or pending in Mississippi or in any other
50 jurisdiction, to my knowledge.

51 VI.

52 The gross value of the decedent's entire personal estate,
53 including the value of all property passing to any party either by
54 intestacy or under a will, does not exceed Twenty Thousand Dollars
55 (\$20,000.00). (Here, list each asset, e.g., cash, stock and its
56 fair market value).

57 VII.

58 (Strike either (VII)(a) or (VII)(b)).

59 (a) All of the decedent's funeral expenses have been
60 paid; or

61 (b) The amount of the decedent's unpaid funeral
62 expenses and the name and post office address of each person
63 entitled thereto are as follows:

64 NAME _____
65 ADDRESS _____
66 AMOUNT _____

67 VIII.

68 There is no known unpaid claimant or contested claim against
69 the decedent, except as stated in paragraph (7).

70 IX.

71 (Strike either (IX)(a) or (IX)(b)).

72 (a) The decedent left no will. The names, places of
73 residence and relationships of the decedent's heirs, and the
74 portion of the estate to which each heir is entitled under the law
75 where decedent died intestate are as follows:

76 NAME, RELATIONSHIP AND PLACE OF RESIDENCE: _____
77 AGE OF MINORS: _____
78 PORTION OF ESTATE: _____

79 (b) The decedent left a will, which has been filed with
80 the clerk of an appropriate court. A certified copy of the will
81 on file is attached. To the best of my knowledge and belief the
82 will on file is the decedent's last will and was signed by the
83 decedent and the attesting witnesses as required by law and would
84 be admissible to probate. The names and places of residence of
85 the legatees and the portion of the estate, if any, to which each
86 legatee is entitled are as follows:

87 NAME, RELATIONSHIP AND PLACE OF RESIDENCE: _____
88 AGE OF MINORS: _____
89 PORTION OF ESTATE: _____

90 (c) Affiant is unaware of any dispute or potential
91 conflict as to the heirship or will of the decedent.

92 X.

126 loss because of such reliance. That indemnification shall only be
127 up to the amount lost because of the act or omission of the
128 affiant. Any person recovering under this subsection (5) shall be
129 entitled to reasonable attorney's fees and the expenses of
130 recovery.

131 (6) **Nonresident submission to jurisdiction.** The affiant of
132 a small estate affidavit who is a nonresident of Mississippi
133 submits himself or herself to the jurisdiction of Mississippi
134 courts for all matters related to the preparation or use of the
135 affidavit. The affidavit shall provide the name, address and
136 phone number of a person whom the affiant names as his agent for
137 service of process. If no such person is named or if, for any
138 reason, service on the named person cannot be effectuated, the
139 clerk of the chancery court of the county of which the decedent
140 was a resident at the time of his death shall be the agent for
141 service of process.

142 (7) **Effective date.** Any action properly taken under this
143 section on or after July 1, 2007, is valid regardless of the date
144 of death of the decedent.

145 **SECTION 2.** Section 91-7-147, Mississippi Code of 1972, is
146 amended as follows:

147 91-7-147. (1) Where the value of an estate shall not be
148 more than Five Thousand Dollars (\$5,000.00), the court shall
149 dispense with newspaper notices; and notices in lieu thereof shall
150 be posted for thirty (30) days at the courthouse door and two (2)
151 other public places in the county. Failure of persons having
152 claims against the estate to have their claims probated and
153 registered by the clerk of the court granting letters within
154 ninety (90) days after the date on which notice is posted will bar
155 such claims as provided in Section 91-7-151.

156 (2) Notice to creditors by publication or otherwise is not
157 required where an estate is paid or delivered under the terms of
158 Section 1 of Senate Bill No. 2480, 2007 Regular Session.

159 **SECTION 3.** This act shall take effect and be in force from
160 and after July 1, 2007.