

By: Representative Sanford

To: Judiciary A

HOUSE BILL NO. 164

1 AN ACT TO AMEND SECTION 91-7-322, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE VALUE THRESHOLD OF PROBATE ESTATES FOR SUCCESSOR  
3 AFFIDAVITS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 91-7-322, Mississippi Code of 1972, is  
6 amended as follows:

7 91-7-322. (1) Except as may be otherwise provided by  
8 Sections 81-5-63, 81-12-135, 81-12-137 and 91-7-323, at any time  
9 after thirty (30) days from the death of a decedent, any person  
10 indebted to the decedent or having possession of tangible personal  
11 property or an instrument evidencing a debt, obligation, stock, or  
12 chose in action belonging to the decedent shall make payment when  
13 due of the indebtedness or deliver the tangible personal property  
14 or an instrument evidencing a debt, obligation, stock, or chose in  
15 action to a person claiming to be the successor of the decedent,  
16 as defined herein, or in a manner as directed by the successor,  
17 upon being presented an affidavit made by the successor stating:



18           (a) That the value of the entire probate estate of the  
19 decedent, wherever located, excluding all liens and encumbrances  
20 thereon, does not exceed \* \* \* One Hundred Thousand Dollars  
21 (\$100,000.00);

22           (b) That at least thirty (30) days have elapsed since  
23 the death of the decedent;

24           (c) That no application or petition for the appointment  
25 of a personal representative of the decedent is pending, nor has a  
26 personal representative of the decedent been appointed in any  
27 jurisdiction;

28           (d) The facts of relationship establishing the affiant  
29 as a successor of the decedent;

30           (e) Directing the manner of distribution of the debt or  
31 property; and

32           (f) Acknowledging the successor's obligation to  
33 distribute the debt or property to those having a superior right  
34 to same.

35           (2) For the purposes of this section, "successor" means:

36               (a) The decedent's spouse;

37               (b) If there is no surviving spouse of the decedent,  
38 then any child of the decedent;

39               (c) If there is no surviving spouse or children of the  
40 decedent, then to any grandchild of the decedent; or



41 (d) If there is no surviving spouse, children or  
42 grandchildren of the decedent, then either parent or any siblings  
43 of the decedent.

44 (3) Any minor or incapacitated adult who is a successor of  
45 the decedent may be represented by a guardian, natural or  
46 appointed, conservator, custodian, or other personal  
47 representative, as appointed by the court or by power of attorney.

48 (4) Except as otherwise provided in Sections 93-20-209 and  
49 93-20-431, the representative of a minor or incapacitated adult as  
50 defined in subsection (3) of this section shall receive any  
51 property or payments from the decedent's estate for the sole use  
52 and benefit of said minor or incapacitated adult.

53 (5) The successor of a decedent, upon complying with the  
54 provisions of subsection (1) of this section, shall be empowered  
55 to negotiate, transfer ownership and exercise all other incidents  
56 of ownership with respect to the personal property and instruments  
57 described in subsection (1) of this section.

58 (6) Any person paying, delivering, transferring or issuing  
59 personal property or the evidence thereof pursuant to the  
60 provisions of subsection (1) of this section shall be discharged  
61 and released to the same extent as if such person had dealt with a  
62 personal representative of the decedent. Such person shall not be  
63 required to see to the proper application of the personal property  
64 or evidence thereof or to inquire into the truth of any statement  
65 in the affidavit. If any person to whom an affidavit is



66 delivered, in accordance with the provisions of subsection (1) of  
67 this section, refuses to pay, deliver, transfer or issue any  
68 personal property or evidence thereof to the successor, such  
69 property or evidence thereof may be recovered or its payment,  
70 delivery, transfer or issuance compelled upon proof of the  
71 successor's right in a proceeding brought in chancery court for  
72 such purpose by or on behalf of the persons entitled thereto. Any  
73 person to whom payment, delivery, transfer or issuance is made  
74 shall be answerable and accountable to the personal representative  
75 of the estate, if any, or to any other person having a superior  
76 right.

77       **SECTION 2.** This act shall take effect and be in force from  
78 and after July 1, 2025.

