

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1449

5 By: Representative Hawks
6

For An Act To Be Entitled

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

14 TO CREATE "CARMACK'S LAW"; AND CONCERNING
15 THE ABILITY OF A DISTRIBUTEE OF A SMALL
16 ESTATE TO MAKE BANK DEPOSITS ON BEHALF OF
17 A DECEASED PERSON'S ESTATE.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. DO NOT CODIFY. Title.

24 This act shall be known and may be cited as "Carmack's Law".
25

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

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

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

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

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



1 thousand dollars (\$100,000).

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

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

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

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

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

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

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

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

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 35 **APPROVED: 3/23/21**