



2022 South Dakota Legislature

House Bill 1085

Introduced by: **Representative** Mortenson

1 **An Act to expand the eligibility for a small estate probate.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 29A-3-1201 be AMENDED:**

4 **29A-3-1201.** (a) Thirty days after the death of a decedent, any person indebted
5 to the decedent or having possession of tangible personal property or an instrument
6 evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall
7 make payment of the indebtedness or deliver the tangible personal property or an
8 instrument evidencing a debt, obligation, stock, or chose in action to a person claiming to
9 be the successor of the decedent upon being presented an affidavit made by or on behalf
10 of the successor stating that:

- 11 (1) The value of the entire estate, wherever located, less liens and encumbrances, does
12 not exceed ~~\$50,000~~ \$100,000;
- 13 (2) Thirty days have elapsed since the death of the decedent;
- 14 (3) No application or petition for the appointment of a personal representative is
15 pending or has been granted in any jurisdiction;
- 16 (4) The decedent has not incurred any indebtedness to the Department of Social
17 Services for medical assistance for nursing home or other medical institutional
18 care; and
- 19 (5) The claiming successor is entitled to payment or delivery of the property.

20 (b) A transfer agent of any security shall change the registered ownership on the
21 books of a corporation from the decedent to the successor or successors upon the
22 presentation of an affidavit as provided in subsection (a).