

LAWS OF DELAWARE
VOLUME 85
CHAPTER 281
153rd GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 333

AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO DISTRIBUTION OF DECEDENT'S PROPERTY WITHOUT GRANT OF LETTERS OF ADMINISTRATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2306, Title 12 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2306. Distribution of decedent's property without grant of letters where estate assets do not exceed ~~\$30,000.~~
\$50,000.

(a) The spouse of a decedent or any person who is a grandparent of the decedent, a lineal descendant of a grandparent of the decedent, the personal representative of any of the foregoing who may be deceased, or the guardian or trustee of any of the foregoing who may be incapacitated, or the trustee of a trust created by the decedent, a funeral director licensed in the State, or the named executor or executors in the decedent's will if the named executor or executors satisfies all qualifications set forth in § 1508 of this title, shall be entitled to the personal estate of the decedent for the purpose of making distribution thereof in accordance with the decedent's will or, if there be no will, with Chapter 5 of this title without awaiting the appointment of a personal representative or probate of a will upon executing an affidavit attesting to all of the following under ~~oath that~~ oath:

- (1) No petition for the appointment of a personal representative is pending or has been ~~granted;~~ granted.
- (2) Thirty days have elapsed since the death of the ~~decedent;~~ decedent.
- (3) The value of the personal estate of the decedent other than property described in § 1901(b) and (c) of this title and other than jointly owned property, does not exceed ~~\$30,000;~~ \$50,000.
- (4) All known debts of the decedent are paid or provided ~~for;~~ for.
- (5) The surviving spouse's allowance, pursuant to § 2308 of this title, has been paid, provided for, waived or has expired by lapse of time pursuant to § 2308(b) of this ~~title;~~ title.
- (6) Decedent did not own real estate in Delaware, either solely or as tenants in ~~common;~~ and common.
- (7) There is furnished to any person owing any money, having custody of any property or acting as registrar or transfer agent of any evidence of interest, indebtedness, property or right of the decedent an affidavit

showing the existence of the foregoing conditions and the right of the affiant to receive such money or property or to have such evidence transferred for the purpose set forth in this subsection.

(b) Preference for receiving the personal estate of the decedent under this section for the purpose of making distribution thereof shall be given to the named executor in the decedent's will who is not disqualified by the provisions set forth in § 1508 of this title, the spouse, any child, any parent, any sibling, any grandchild or any grandparent of the decedent, or to a funeral director licensed in the State, in that order. There shall be no order of preference among the remaining persons or entities entitled to receive the personal estate pursuant to subsection (a) of this section.

(c) The named executor in the decedent's will who is not disqualified by the provisions set forth in § 1508 of this title and next of kin of a decedent shall have the right upon the death of the decedent:

- (1) To take possession of the decedent's motor vehicle or ~~vehicles~~; and vehicles.
- (2) To enter any premises for the sole and exclusive purpose of removing from the premises clothing belonging to the decedent to be used for the burial or viewing of the ~~decedent~~; and decedent.
- (3) To enter the residential rental unit of the decedent, when the decedent is the sole tenant of a residential rental unit for the purpose of removing therefrom and taking possession, but not ownership, of all of the decedent's belongings in that unit. Access and removal shall take place during business hours at mutually agreeable times to the parties with standing unless otherwise agreed to and must be completed within 30 days of the death of the decedent or else the rights granted under this subsection shall expire.

The executor shall have preference over the next of kin to carry out the actions set forth in this subsection. If the decedent did not leave a will that names a qualified executor and no next of kin is available, a funeral director may have access to enter the premises for the aforementioned purpose of securing clothes only. The register of wills shall provide a form limited to facilitating action taken pursuant to this subsection. Such a form must be obtained prior to any person acting pursuant to this subsection.

(d) Nothing in subsection (a) of this section shall preclude the Register of Wills from issuing an affidavit when and where appropriate.

Approved June 10, 2026