

**CHAPTER 30.1-23**  
**COLLECTION BY AFFIDAVIT - ADMINISTRATION FOR SMALL ESTATES**

**30.1-23-01. (3-1201) Collection of personal property by affidavit.**

1. Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating that:
  - a. The value of the entire estate subject to distribution or succession under chapters 30.1-01 through 30.1-23, wherever located, less liens and encumbrances, does not exceed fifty thousand dollars.
  - b. Thirty days have elapsed since the death of the decedent.
  - c. An application or petition for the appointment of a personal representative is not pending or has not been granted in any jurisdiction.
  - d. The claiming successor is entitled to payment or delivery of the property.
2. A transfer agent of any security shall change the registered ownership on the books of a corporation or limited liability company from the decedent to the successor upon the presentation of an affidavit as provided in subsection 1.

**30.1-23-02. (3-1202) Effect of affidavit.**

The person paying, delivering, transferring, or issuing personal property or the evidence thereof pursuant to affidavit is discharged and released to the same extent as if the person dealt with a personal representative of the decedent. The person is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. If any person to whom an affidavit is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer, or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.

**30.1-23-03. (3-1203) Small estates - Summary administrative procedure.**

If it appears from the inventory and appraisal that the value of the entire estate, less liens and encumbrances, does not exceed the homestead as defined in section 47-18-01, plus exempt property pursuant to section 30.1-07-01, family allowance, costs and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, the personal representative, without giving notice to creditors, may immediately disburse and distribute the estate to the persons entitled thereto and file a closing statement as provided in section 30.1-23-04.

**30.1-23-04. (3-1204) Small estate - Closing by sworn statement of personal representative.**

1. Unless prohibited by order of the court and except for estates being administered by supervised personal representatives, a personal representative may close an estate administered under the summary procedures of section 30.1-23-03 by filing with the court, at any time after disbursement and distribution of the estate, a verified statement stating that:
  - a. To the best knowledge of the personal representative, the value of the entire estate, less liens and encumbrances, did not exceed the homestead as defined in section 47-18-01, plus exempt property, pursuant to section 30.1-07-01, family allowance, costs and expenses of administration, reasonable funeral expenses,

- and reasonable, necessary medical and hospital expenses of the last illness of the decedent.
- b. The personal representative has fully administered the estate by disbursing and distributing it to the persons entitled thereto.
  - c. The personal representative has sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom the personal representative is aware whose claims are neither paid nor barred and has furnished a full account in writing of the personal representative's administration to the distributees whose interests are affected.
2. If no actions or proceedings involving the personal representative are pending in the court one year after the closing statement is filed, the appointment of the personal representative terminates.
  3. A closing statement filed under this section has the same effect as one filed under section 30.1-21-03.

**30.1-23-05. Will searches, burial documents procurement, and inventory of contents.**

1. Upon being furnished with satisfactory proof of death of a sole lessee or the last surviving co-lessee of a safe deposit box, the safe deposit company may open the box for an individual who appears in person and furnishes an affidavit stating the following:
  - a. The box may contain the will or deed to a burial lot or a document containing instructions for the burial of the lessee or that the box may contain property belonging to the estate of the lessee;
  - b. The individual is an interested person and wishes to open the box:
    - (1) To conduct a will search;
    - (2) To obtain a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements; or
    - (3) To make an inventory of the contents of the box; and
  - c. There has been no application for or appointment of a personal representative or administrator for the decedent's estate.
2. The safe deposit company may not open the box under this section if it has received a copy of letters from the representative of the deceased lessee's estate or other applicable court order.
3. The safe deposit company need not open the box if the lessee's key or combination is not available.
4. For purposes of this section, the term "interested person" means:
  - a. A person named as personal representative in a purported will of the lessee;
  - b. A person who immediately prior to the death of the lessee had the right of access to the box;
  - c. The surviving spouse of the lessee;
  - d. A devisee of the lessee;
  - e. An heir of the lessee; or
  - f. A person designated by the lessee in a writing acceptable to the safe deposit company which is filed with the safe deposit company before death.
5. The safe deposit company need not ascertain the truth of any statement in the affidavit required to be furnished under this section, and when acting in reliance upon an affidavit, it is discharged as if it dealt with the personal representative of the lessee. The safe deposit company is not responsible for the adequacy of the description of any property included in an inventory of the contents of a safe deposit box, nor for conversion of the property in connection with actions performed under this section, except for conversion by intentional acts of the company or its employees, directors, officers, or agents. If the safe deposit company is not satisfied that the requirements of this section have been met, it may decline to open the box.
6. No contents of a box other than a will and a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements may be removed pursuant to this section.