

**SB106 ENGROSSED**



1 SB106  
2 WTSR5EE-2  
3 By Senators Smitherman, Williams, Kelley, Roberts, Waggoner,  
4 Coleman-Madison, Albritton, Livingston  
5 RFD: Judiciary  
6 First Read: 05-Feb-25



## SB106 Engrossed

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

A BILL  
TO BE ENTITLED  
AN ACT

Relating to the Alabama Small Estates Act; to amend Sections 43-2-690, 43-2-691, 43-2-692, 43-2-693, 43-2-694, 43-2-695, 43-2-696, 43-8-40, and 43-8-252, Code of Alabama 1975; to further provide for the summary distribution of the sum of a decedent's estate which contains personal property valued at a certain maximum amount with authorized adjustments allowed based on the Consumer Price Index, which includes the homestead allowance, exempt property, and family allowance as adjusted; and to add Sections 43-2-691.1, 43-2-697, 43-2-698, and 43-8-23 to the Code of Alabama 1975, to specify that the probate court has jurisdiction to manage these small estates under a modified and streamlined small estate distribution process.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 43-2-690, 43-2-691, 43-2-692, 43-2-693, 43-2-694, 43-2-695, 43-2-696, 43-8-40, and 43-8-252, Code of Alabama 1975, are amended to read as follows:

"§43-2-690

This division shall be known as the "Revised Alabama Small Estates Act."



## SB106 Engrossed

29 "§43-2-691

30 For the purposes of this division, the following words  
31 and phrases ~~shall~~ have the following meanings~~respectively~~  
32 ~~ascribed to them by this section:~~

33 ~~(1) DEVISEES. The persons who are entitled to the~~  
34 ~~personal property of a decedent under the terms of a~~  
35 ~~testamentary disposition.~~

36 (1) DECEDENT. A deceased person who is not survived by  
37 a minor child who is not the child of the surviving spouse, if  
38 any, and whose estate is subject to summary distribution under  
39 this division.

40 ~~(2) DISTRIBUTEES. The persons who are entitled to the~~  
41 ~~personal property of a decedent under the terms of a~~  
42 ~~testamentary disposition or under the Alabama descent and~~  
43 ~~distribution statutes.~~

44 ~~(3)~~ (2) ESTATE. All the personal property of a decedent  
45 who owns no real property at the time of his or her death for  
46 which title does not pass by operation of law.

47 ~~(4) HEIRS. The persons who are entitled to the personal~~  
48 ~~property of a decedent under the Alabama descent and~~  
49 ~~distribution statutes.~~

50 ~~(5)~~ (3) PERSON. The term includes natural persons and  
51 corporations. A natural person, corporation, organization,  
52 other legal entity, or any trust or trustee.

53 ~~(6)~~ (4) PERSONAL REPRESENTATIVE. The term includes an  
54 executor, administrator, administrator with the will annexed,  
55 and special administrator, and successor personal  
56 representative.



## SB106 Engrossed

57           (5) SELF-PROVED WILL. A will that is self-proved in  
58 accordance with either Section 43-8-132 or 43-8-133.

59           (6) SMALL ESTATE. An estate having a value that does  
60 not exceed the small estate amount.

61           (7) SMALL ESTATE AMOUNT. The sum as adjusted from time  
62 to time based on the Consumer Price Index formula set forth in  
63 Section 43-8-116 of the homestead allowance under Section  
64 43-8-110, exempt property under Section 43-8-111, and the  
65 family allowance under Sections 43-8-112 and 43-8-113.

66           (8) SUMMARY DISTRIBUTION. The procedure provided in  
67 this division to distribute the small estate of a decedent  
68 without the appointment of a personal representative.

69           (9) SURVIVING SPOUSE. The spouse of the decedent at the  
70 time of decedent's death, provided the spouse is a surviving  
71 spouse under Section 43-8-252 and is not an individual  
72 claiming to be a spouse under common law, whether or not such  
73 common law marriage allegedly occurred before or after January  
74 1, 2017."

75           "§43-2-692

76           ~~(a) The surviving spouse, if there is one, otherwise~~  
77 ~~the distributees of an estate of personal property only, may~~  
78 ~~initiate a proceeding for summary distribution of the estate~~  
79 ~~by filing a verified petition in the office of the judge of~~  
80 ~~probate of the county in which the decedent was domiciled at~~  
81 ~~death alleging the conditions provided in subsection (b). The~~  
82 ~~petition shall include a description of the estate of the~~  
83 ~~decedent. No bond shall be required to be filed with the~~  
84 ~~petition.~~



## SB106 Engrossed

85           (a) A person, or a person duly authorized to act for  
86 the person, entitled to an interest in a small estate under  
87 this division may initiate a proceeding for summary  
88 distribution of the estate by filing a verified petition in  
89 the office of the judge of probate of the county in which the  
90 decedent was domiciled at death. No bond shall be required to  
91 be filed with the petition. If the decedent died with a  
92 self-proved will, the self-proved will shall be filed with the  
93 petition.

94           ~~(b) The surviving spouse or distributee shall have a~~  
95 ~~defeasible right to the personal property of the decedent~~  
96 ~~without awaiting the appointment of a personal representative~~  
97 ~~or the probate of a will if all of the following conditions~~  
98 ~~exist:~~

99           ~~(1) The value of the entire estate does not exceed~~  
100 ~~twenty-five thousand dollars (\$25,000). This figure shall be~~  
101 ~~adjusted annually for changes in the Consumer Price Index by~~  
102 ~~the State Finance Director who shall notify each judge of~~  
103 ~~probate of the newly adjusted figure.~~

104           ~~(2) The decedent died a resident of this state.~~

105           ~~(3) No petition for the appointment of a personal~~  
106 ~~representative is pending or has been granted.~~

107           ~~(4) At least 30 days have elapsed since the notice of~~  
108 ~~the filing of the petition was published as hereinafter~~  
109 ~~provided.~~

110           ~~(5) All funeral expenses of the decedent have been~~  
111 ~~paid, or alternatively, that arrangements for the payment out~~  
112 ~~of the estate of the decedent of all unpaid funeral expenses~~



## SB106 Engrossed

113 ~~have been made by the surviving spouse or other distributee.~~

114 ~~(6) If the decedent died intestate, the awards due~~  
115 ~~under Alabama descent and distribution statutes to the~~  
116 ~~surviving spouse and to the child or children have been~~  
117 ~~determined by the judge of probate.~~

118 ~~(7) If the decedent died testate, a document purporting~~  
119 ~~to be his or her will, which on its face, is properly~~  
120 ~~executed, witnessed, and attested in compliance with Alabama~~  
121 ~~law, has been duly filed in the office of the judge of~~  
122 ~~probate.~~

123 ~~(8) Notice of the filing of a petition for a summary~~  
124 ~~distribution under this division shall be published once in a~~  
125 ~~newspaper of general circulation in the county in which the~~  
126 ~~decedent was domiciled, or if there is no newspaper of general~~  
127 ~~circulation in the county, then notice thereof shall be posted~~  
128 ~~at the county courthouse for one week.~~

129 ~~(9) All claims against the decedent's estate have been~~  
130 ~~paid or arrangements for the payment out of the estate of the~~  
131 ~~decedent have been made by the surviving spouse or other~~  
132 ~~distributee according to the following priority:~~

133 ~~a. First, to each person entitled to payment for any~~  
134 ~~funeral expenses owed by the decedent or his or her estate.~~

135 ~~b. To the judge of probate for fees and charges~~  
136 ~~incurred in the proceedings for summary distribution.~~

137 ~~c. To any person entitled to payment for expenses~~  
138 ~~incurred in the decedent's last illness.~~

139 ~~d. To the State of Alabama, the county, and any~~  
140 ~~municipality therein for taxes assessed on the estate of the~~



## SB106 Engrossed

141 ~~decedent previous to his or her death.~~

142 ~~e. To each secured creditor.~~

143 ~~f. To each unsecured lienholder.~~

144 ~~g. To each remaining general unsecured creditor of the~~  
145 ~~decedent.~~

146 ~~h. To each surviving spouse, child, or other~~  
147 ~~distributee who is entitled to take under Alabama's descent~~  
148 ~~and distribution laws, or, alternatively, to each devisee~~  
149 ~~entitled to take under any testamentary disposition of the~~  
150 ~~decedent.~~

151 (b) The petition for summary distribution shall provide  
152 the following information and allege the following conditions:

153 (1) The decedent died domiciled in this state and was  
154 domiciled in the county in which the petition is filed.

155 (2) The decedent's estate is a small estate.

156 (3) A description of the personal property constituting  
157 the decedent's estate and the value.

158 (4) No petition for the appointment of a personal  
159 representative is pending nor has one been granted.

160 (5) The name, address, age, capacity, and relationship  
161 to the decedent of: (i) the petitioner; (ii) each person who  
162 would be entitled to an interest in the decedent's estate  
163 under the laws of descent and distribution of this state; and  
164 (iii) each person entitled to an interest in the decedent's  
165 estate under any will of the decedent filed with the petition.

166 "Capacity" as used in this subdivision means whether the  
167 person is 19 years of age or older and whether the person is  
168 of sound mind.



## SB106 Engrossed

169           (6) If the decedent was survived by a spouse, that the  
170 decedent's surviving spouse is entitled to the decedent's  
171 estate.

172           (7) If the decedent died without a surviving spouse and  
173 without a self-proved will which does not dispose of all of  
174 the small estate, the names of the persons who are entitled to  
175 the decedent's estate under the descent and distribution  
176 statutes of this state and their respective shares.

177           (8) If the decedent died with a will.

178           (9) If the decedent died with no surviving spouse and  
179 with a self-proved will, the names of the persons who are  
180 entitled under such self-proved will to a share or interest in  
181 the decedent's estate and their respective shares or  
182 interests.

183           (10) All funeral expenses of the decedent have been  
184 paid or arrangements for the payment out of the estate of the  
185 decedent of all unpaid funeral expenses have been made by or  
186 on behalf of the petitioner.

187           (11) All claims against the decedent's estate have been  
188 paid or arrangements for the payment out of the estate of the  
189 decedent have been made by the petitioner.

190           (c) Upon the filing of a petition for summary  
191 distribution under this division both of the following shall  
192 occur:

193           (1) Notice of the filing of the petition shall be  
194 published once in a newspaper of general circulation in the  
195 county in which the decedent was domiciled or, if there is no  
196 newspaper of general circulation in the county, the notice of





## SB106 Engrossed

197 the filing shall be posted at the county courthouse for one  
198 week.

199 (2) The petitioner shall notify the Alabama Medicaid  
200 Agency of the filing of the petition as provided in Section  
201 43-2-698 and shall provide proof of such notice to the probate  
202 court.

203 (d) The probate court shall not enter an order  
204 directing summary distribution pursuant to a petition under  
205 this division unless:

206 (1) At least 30 days have elapsed since the notice of  
207 the filing of the petition was published as provided in  
208 subsection (c);

209 (2) At least 30 days have elapsed since the Alabama  
210 Medicaid Agency received notice of the filing of the petition;  
211 and

212 (3) It appears to the probate court that all of the  
213 conditions for summary distribution provided in this  
214 subsection have been met and that the petition is due to be  
215 granted."

216 "§43-2-693

217 ~~When all of~~ (a) Upon finding that the applicable  
218 ~~conditions~~ requirements enumerated in ~~subsection (b) of Section~~  
219 ~~43-2-692 occur~~ this division have been met, the judge of  
220 probate shall enter an order directing a summary distribution  
221 of the estate delineating the portion of the small estate that  
222 each person identified in the order is entitled.

223 (b) The order issued by the court under subsection (a)  
224 shall be final and conclusive as to all items and matters



## SB106 Engrossed

225 shown, and appeals must be taken in the manner provided for  
226 from any other final decree of the court in connection with  
227 the administration of decedents' estates."

228 "§43-2-694

229 Upon delivering a copy of the judge of probate's  
230 ~~judge's order for~~directing summary distribution, ~~or an~~  
231 ~~affidavit executed by any person having knowledge of the fact~~  
232 ~~and alleging the concurrence of the conditions listed in~~  
233 ~~subsection (b) of section 43-2-692 showing the defeasible~~  
234 ~~right therein, together with a copy of the decedent's will if~~  
235 ~~the claim is under such will, such spouse or distributee shall~~  
236 ~~be~~ the persons entitled to summary distribution of the  
237 decedent's estate under this division shall be entitled to  
238 have the decedent's property or the evidence of the decedent's  
239 ownership in such property transferred to ~~him~~ them by any  
240 person owing any money to the decedent's estate, having  
241 custody of any personal property of the decedent or acting as  
242 a registrar or transfer agent of any evidence of interest,  
243 indebtedness, property, or right of the deceased therein."

244 "§43-2-695

245 The ~~defeasible right of the surviving spouse or~~  
246 ~~distributee~~ a person to summary distribution of a decedent's  
247 estate provided for by this division shall be subject only to  
248 any preexisting rights to administer the estate or probate the  
249 will, or to the superior rights of any other person to such  
250 personal property."

251 "§43-2-696

252 The person making payment, delivery, transfer, or



## SB106 Engrossed

253 issuance of personal property or evidence thereof pursuant to  
254 an order for summary distribution issued under this division  
255 ~~the affidavit prescribed in section 43-2-694~~ shall be  
256 discharged and released to the same extent as if made to a  
257 personal representative of the decedent, and ~~h~~et~~he~~ person  
258 shall not be required to see the petition~~application~~ thereof  
259 or to inquire into the truth of any statement in the  
260 ~~affidavit~~petition if made by any other person. If any person  
261 to whom such order~~affidavit~~ is delivered refuses to pay,  
262 deliver, transfer, or issue any personal property or evidence  
263 thereof, ~~it~~ the personal property may be recovered or its  
264 payment, delivery, transfer, or issuance compelled in an  
265 action brought for such purpose by or on behalf of the person  
266 entitled thereto under ~~sections~~Sections 43-2-691.1, 43-2-692,  
267 and 43-2-695 upon proof of the ~~defeasible~~ right declared by  
268 such sections. ~~Any person to whom payment, delivery, transfer~~  
269 ~~or issuance is made shall be answerable and accountable~~  
270 ~~therefor to any personal representative of the estate or to~~  
271 ~~the surviving spouse or minor children of the decedent who~~  
272 ~~shall proceed against such person, or to any other person~~  
273 ~~having a superior right to the decedent's estate."~~

274 "§43-8-40

275 If an estate is not a small estate under Section  
276 43-2-691 that is being distributed as a summary distribution  
277 under Division 10 of Article 18 of Chapter 2 of Title 43, then  
278 any~~Any~~ part of the estate of a decedent not effectively  
279 disposed of by the decedent's~~his~~ will passes to the  
280 decedent's ~~his~~ heirs as prescribed in the following sections



## SB106 Engrossed

281 of this chapter."

282 "§43-8-252

283 (a) A person who is divorced from the decedent or whose  
284 marriage to the decedent has been annulled is not a surviving  
285 spouse unless, by virtue of a subsequent marriage, ~~he~~the  
286 person is married to the decedent at the time of death. A  
287 decree of separation ~~which~~that does not terminate the status  
288 of husband and wife is not a divorce for purposes of this  
289 section.

290 (b) For purposes of ~~sections~~Sections 43-2-690 through  
291 43-2-698, 43-8-40 through 43-8-49, 43-8-55 through 43-8-58,  
292 43-8-70 through 43-8-76, 43-8-90, 43-8-91, and 43-8-110  
293 through 43-8-113, a surviving spouse does not include:

294 (1) A person who obtains or consents to a final decree  
295 or judgment of divorce from the decedent or an annulment of  
296 their marriage, which decree or judgment is not recognized as  
297 valid in this state, unless they subsequently remarry;  
298 ~~participate in a marriage ceremony purporting to marry each to~~  
299 ~~the other, or subsequently live together as man and wife;~~

300 (2) A person who, following a decree or judgment of  
301 divorce or annulment obtained by the decedent, marries,  
302 ~~participates in a marriage ceremony with a third person; or~~

303 (3) A person who is a party to a valid proceeding  
304 concluded by an order purporting to terminate all marital  
305 property rights."

306 Section 2. Sections 43-2-691.1, 43-2-697, 43-2-698, and  
307 43-8-23 are added to the Code of Alabama 1975, to read as  
308 follows:



## SB106 Engrossed

309 §43-2-691.1

310 (a) During the pendency of a summary disposition, any  
311 person entitled to the homestead allowance under Section  
312 43-8-110, exempt property under Section 43-8-111, or the  
313 family allowance under Sections 43-8-112 and 43-8-113 may file  
314 a verified petition in the office of the judge of probate in  
315 which the summary distribution is pending. The petition shall  
316 set forth the person's entitlement to the exemption and  
317 allowances. The probate court, upon review and approval of the  
318 petition, may enter an order for disbursing the exemption and  
319 allowances from the small estate to the person in accordance  
320 with Sections 43-8-110, 43-8-111, or 43-8-112 and 43-8-113.

321 (b) The remainder of the small estate of a decedent  
322 domiciled in Alabama at the time of the decedent's death,  
323 following the exemption and allowances disposition made in  
324 accordance with subsection (a) that meets all of the  
325 conditions of this division, shall be distributed as follows:

326 (1) To the surviving spouse of the decedent.

327 (2) If the decedent died with a self-proved will and  
328 with no surviving spouse, to those persons entitled to the  
329 decedent's estate under such will, and to those persons  
330 entitled to share in the decedent's estate under the laws of  
331 descent and distribution of this state for the part of the  
332 decedent's estate not effectively disposed of by the  
333 decedent's self-proved will.

334 (3) If the decedent died without a surviving spouse and  
335 without a self-proved will, to those persons entitled to share  
336 in the decedent's estate under the laws of descent and



## SB106 Engrossed

337 distribution of this state.

338 §43-2-697

339 Whenever fraud had been perpetrated in connection with  
340 any proceeding or in any statement filed under this division  
341 or if fraud is used to avoid or circumvent the provisions or  
342 purposes of this division, any person injured by these actions  
343 may obtain appropriate relief against the perpetrator of the  
344 fraud or receive restitution from any person, other than a  
345 bona fide purchaser, benefiting from the fraud, whether  
346 innocent or not. Any proceeding must be commenced within one  
347 year after the discovery of the fraud or from the time when  
348 the fraud should have been discovered, but no proceeding may  
349 be brought against anyone who did not perpetrate the fraud  
350 later than five years after the time of the commission of the  
351 fraud. This section has no effect on remedies related to fraud  
352 perpetrated against a decedent during the decedent's lifetime  
353 which affects the succession of the decedent's estate.

354 §43-2-698

355 The small estate amount shall at all times be equal to  
356 the combined maximum amount of the homestead allowance, exempt  
357 property, and family allowance provided under Sections  
358 43-8-110 through 43-8-113, as adjusted pursuant to Section  
359 43-8-116.

360 §43-8-23

361 In the event the estate qualifies as a small estate  
362 under Section 43-2-691, the summary distribution proceedings  
363 for a small estate under Division 10 of Article 18 of Chapter  
364 2 of Title 43 are available to the small estate.



## SB106 Engrossed

365                   Section 3. This act shall become effective on October  
366   1, 2025.

SB106 Engrossed



367  
368  
369 Senate

370 Read for the first time and referred .....05-Feb-25  
371 to the Senate committee on Judiciary  
372  
373 Read for the second time and placed .....20-Feb-25  
374 on the calendar:  
375 0 amendments  
376  
377 Read for the third time and passed .....18-Mar-25  
378 as amended  
379 Yeas 33  
380 Nays 0  
381 Abstains 0  
382  
383

384 Patrick Harris,  
385 Secretary.  
386