

**LDIR#217**  
**ADMINISTRA-**  
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**ART.IV**  
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**OF SMALL**  
**ESTATES**

## ARTICLE IV

### ADMINISTRATION OF SMALL ESTATES

#### GENERAL COMMENT:

Under present Alaska law, three groups of provisions are applicable to administration of small estates: (1) Sec. 61-10-1, ACLA 1949 dispensing with administration when a decedent specifies it in his will, and certain other conditions are met; (2) certain general provisions (Secs. 61-11-1 to 61-11-7, ACLA 1949) relating to settlement of estates of less than \$1,000 with reduced administration; and (3) a special provision (Secs. 61-19-1 to 61-19-3, ACLA 1949) relating to estates of Indians and other Aboriginal peoples.

The first procedure, dependent in part on the will of a testator, is entirely inapplicable in cases of intestacy. Further, in the case of small estates, it is a reasonable assumption that few wills will be made with advice from counsel familiar with the impracticalities of administration. Therefore, the utilization of the section for estates where it is most needed seems remote.

The second existing procedure also seems to accomplish little. Administration costs, though reduced, are still existent, together with court costs which are often substantial. In the case of an estate of only a few hundred dollars, the entire estate may go toward paying costs of administration.

Whereas the third procedure may prove useful in certain instances, it would seem most efficacious to work out an applicable general procedure whereby special provisions need not be enacted for Indians. Different procedures for different races should be avoided if one provision could meaningfully apply to all groups. A provision of general application has the effect of avoiding litigation as to the application of a special section to persons of mixed racial ancestry.

The suggested revision sets forth three basic procedures for minimizing administration of small estates. The first (Secs. 4.01-4.04) relates to estates of less than \$1500, and eliminates administration entirely unless an interested party petitions for it. The procedure is available to all parties and entails the transfer of property without judicial supervision, by means of affidavit. Separate provisions govern the transfer of real and personal property, commensurate with the desire to settle questions of title to real property as quickly as possible.

The second procedure (Secs. 4.10-4.13) is only open to those parties who are entitled to a family allowance. It provides for a summary distribution of a small estate to the surviving spouse or minor children where the estate, exclusive of homestead, would be entirely consumed in the payment of a family allowance. The upper limit on the amount distributed is that to be prescribed in Art. III of the revised code, which will state the maximum family allowance. (For present allowance provisions, see Secs. 61-12-2, 61-12-3. Also see Sec. 61-12-4 which contemplates the setting apart of the entire estate for support, but in-