

OVERVIEW OF PRIVATE AFFIDAVIT PROCESS (NO PROBATE OPTION)

FROM WV CODE:

(c) When any person holds an asset or property on behalf of or owed to a decedent who died domiciled in this state, upon whose estate there has been no qualification, and the value of that asset or property of the decedent does not exceed \$5,000, including a bank account, a savings institution account, a credit union account, a certificate of deposit, a brokerage account, stock, a mutual fund, a security, a bond, a note, a promissory note, an obligation, an instrument evidencing a debt, indebtedness owed to the decedent, proceeds of life insurance payable to the estate, a deposit, a refund, a tax refund, an overpayment, a chose in action, or an item of tangible personal property including a motor vehicle, after 120 days from the death of the decedent, that person may pay the amount owed to or transfer the asset or property to the decedent's surviving spouse, if any; and if no spouse survived the decedent, then to the distributees of the decedent under the laws of the State of West Virginia, as established by an affidavit to that effect. As used in this section, "person" includes a bank, banking institution, credit union, or West Virginia Division of Motor Vehicles.

(d) Payment in accordance with this section is in full discharge and acquittance to all persons whomsoever on the account of the property to the same extent as if that person dealt with a personal representative of the decedent. That person is not required to see the application of the asset or proceeds or to inquire into the truth of any statement in the affidavit.

THIS PROCESS CANNOT BE USED IF DECEDENT OWNS ANY INTEREST IN REAL ESTATE OR MINERAL RIGHTS IN THEIR NAME INDIVIDUALLY (INHERITED WITH SOMEONE ELSE – LIKE A SIBLING - OR SOLELY IN THEIR NAME ALONE)

THIS PROCESS CANNOT BE USED BY SOMEONE OTHER THAN THE PERSON WHO WOULD INHERIT BY WV LAWS OF INTESTACY. For more details on heirs, see website for form FAMILY TREE.

IMPORTANT: The Fiduciary Office can only provide you with a blank form. **We CANNOT:**

- Help you complete the Private Affidavit
- Notarize the Private Affidavit
- Record the Private Affidavit

NO PROBATE STEPS! This means there is **NO ESTATE/PROBATE documents recorded in Jackson County WV. NO PROOF OF PROBATE ISSUED BY OUR OFFICE.**

For Private Affidavit Form, see website for form PRIVATE AFFIDAVIT template

- Person who completes Private Affidavit must present it (and a certified Death Certificate) to the place holding **each** asset of the decedent.
- This type of transfer process is so limited it seldom is a valid option for anyone except a surviving spouse who only needs to transfer 1 or 2 older vehicles &/or small bank accounts.