

COMPLETE SMALL ESTATE AFFIDAVIT (TESTATE) PROCESS-INCLUDING INSTRUCTIONS TO COMPLETE AFFIDAVIT

WHAT'S NEW? No in-person appointment required (can be done by mail), no waivers, no publication notice, no final settlement of estate & usually, lower probate/recording fees.

Information to use from the “Choosing an Option for Probate of a Decedent” Worksheet:

DEATH CERTIFICATE? ____ Yes. (Must show Jackson County WV as residence to complete this process.) **PLEASE NOTE:** For any Jackson Co WV Resident who died outside of WV, you MUST record an original, certified copy of the Out-of-State Death Certificate WITH THE SMALL ESTATE AFFIDAVIT.

WILL. ____ Yes. (The Original Will—along with any Witness Affidavits, if applicable-- MUST be recorded WITH THE SMALL ESTATE AFFIDAVIT.)

ASSETS: a. PERSONAL PROPERTY? ____ Yes. Information from your Assets of a Decedent worksheet findings will be listed on #6 of the Small Estate Affidavit.

BENEFICIARY (&/OR HEIRS-AT-LAW) NAMES/ADDRESSES. ____ Yes. You **must** know each beneficiary's mailing address to proceed with Small Estate.

Instructions for filling out & recording the Small Estate Affidavit:

*****if the affidavit was emailed, the blanks can be filled out online & printed off for signature & notary completion.*****

******if the affidavit was mailed to you or picked up in our office, all the blanks can be filled out in writing or typed before taking to a notary.******

Each Blank of the Small Estate Affidavit should be completed. Below are tips to help you complete the Affidavit (these follow in the order they appear in the Affidavit):

1. List YOUR State and County (Your location. Where the Affidavit will be signed/sealed by a Notary)
2. List YOUR Name (to match how it is listed in the Will/add an AKA if your legal name is different/misspelled/etc.) & address. You are filing to become the Authorized Successor. (Important: 30 days after death, ONLY THE EXECUTOR/EXECUTRIX may file the Affidavit. 60 days after death, a beneficiary may file the Affidavit)
3. List Decedent's name (name as signed on Will. An “also known as” AKA may also be added IF other assets show a different name for the same person)
4. List Decedent's date of death (month/day/year).
5. Decedent's Residence County must be Jackson & Residence State must be West Virginia to complete this Affidavit.
6. Successor of Decedent: List Executor or Executrix if appointed by the Will AND your next-of-kin Relationship to the Decedent if any.
7. List the Date the Will was signed by the Decedent.

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8. (A Codicil is **an additional** signed/dated/witnessed document that **changes OR adds directions** for the Executor/Executrix to follow that are different from the Original Last Will & Testament.) IF THERE WAS **NO** CODICIL, put a checkmark or “x” in the () beside the date of the Will.
9. IF THERE **WAS** A CODICIL, list the Date the Codicil was signed and then put a checkmark or “x” in the () beside the codicil date.
10. List the name and address of each person who is appointed/nominated as Executor or Executrix of the Will (or Codicil if applicable), starting with the Primary Executor if still living.
 - a. IF LESS THAN 3 EXECUTORS, mark the extra spaces with N/A.
 - b. IF MORE THAN 3 EXECUTORS, type 2 names/2 addresses into 1 space with “/” between the names/addresses.
11. List the Name, Address, Relationship of appropriate beneficiary/ies named in the Will. IMPORTANT REMINDER: The first person listed in the Will has priority as beneficiary (such as the spouse or child, etc.). If that beneficiary (or any other beneficiary) is deceased, see if the Will names an Alternate beneficiary in their place & list that beneficiary’s name & address. If the Will does not name an Alternate beneficiary, WV Code must determine who the beneficiary is. (Our office can assist you with this information).
12. List the Share or percentage the beneficiary is entitled to from the Will (this may also be a particular item). NOTE: if more space is needed for beneficiary information, put a checkmark or “x” in the () statement for continuation sheet.
13. Category #6: When listing the description of each probate personal asset on #6, please DO NOT include any bank account numbers. An appropriate description would be the name of bank & type of account or year/make/model of vehicle. The fair market value should be closest to date of death. (**recommended for “flexibility”—add the statement “Possible check(s)/refund(s) payable to the decedent or the Estate” AND give a best estimate for market value.**) ***this area does NOT have to have ALL blanks filled in*** REMEMBER: **total** must be \$50,000 or less. LIST TOTAL.
14. You MUST checkmark #7 stating that the decedent had NO probate real estate or mineral rights in WV. (cannot use Small Estate if decedent HAS probate real estate/min. rts.)
15. Checkmark or “x” the appropriate () on #8 for IF YOU ARE the Successor AND ALSO the Primary Executor/Executrix named in the Will OR () not applicable because YOU ARE NOT the Primary Executor/Executrix and if you are the Primary Executor/Executrix, it’s been at least 30 days since Decedent’s death with no regular probate started for the Decedent’s estate.
16. Checkmark or “x” the appropriate () on #9 for IF YOU ARE NOT the Executor/Executrix named in the Will & it’s been at least 60 days since Decedent’s death with no regular probate started for the Decedent’s estate.
17. **DO NOT SIGN/DATE AFFIDAVIT UNTIL OUR OFFICE SAYS TO.**
18. **After you have completed steps 1-16, we advise you to fax, email, or mail a copy of it to our office for confirmation. **WV STATE CODE REQUIRES US TO CONFIRM THAT THE BLANKS ARE FILLED IN CORRECTLY & THAT THE TOTAL DOES**

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NOT EXCEED THE AMOUNT SET BY THE WV STATE CODE.** (This step is helpful to keep you from mailing in the document and fees but having it all returned to you because it isn't filled out accurately or correctly.)

19. **WHEN THE SMALL ESTATE AFFIDAVIT HAS BEEN CONFIRMED COMPLETE BY OUR OFFICE**, you may MAIL OR BRING IT TO OUR OFFICE.
20. **Fees for Small Estate Affidavit process (listed below) due when Affidavit recorded:**
 - A. Recording fee, Small Estate Affidavit: \$12.00 (for 5 pages or less), generally \$1.00 per extra page. We can confirm fee when we see the copy of the Affidavit.
 - B. Postage fee, to mail to other Personal Representatives, other heirs or other beneficiaries: \$1.50 per person.
 - C. Copy fees, to mail to other Personal Representatives, other heirs or other beneficiaries: **based on number of pages in the Small Estate Affidavit. (example: 5 page Affidavit copy fee is \$4.50 x number of persons to be notified. 10 page Affidavit copy fee is \$9.50 x number of persons to be notified.
 - D. Certificate & Authorization fee: \$2.50 each. Generally, one certificate should be enough but it is your decision if you want multiple copies.

What happens after Small Estate Affidavit is recorded?

- a. **You, the Authorized Successor, are issued a Certificate & Authorization form listing all transferrable assets.** (You can begin presenting the Certificate & Authorization to places listed to begin transfers to beneficiary/ies.) **We also provide a separate Helpful Information Sheet that may help you**
- b. **Copy of Small Estate Affidavit will be mailed to each additional Executor/trix if applicable &/or each additional beneficiary if applicable.** (if anyone objects in writing to the Small Estate Affidavit within 30 days, we will notify you & follow WV Code to make a determination on whether the estate can continue as a Small Estate or if regular probate must be done)
- c. **You, the Authorized Successor, are responsible for completing the probate process – including notifying creditors, paying debts as able using the probate assets.**