

# DECEDENT'S ESTATE- SMALL ESTATE AFFIDAVIT

## SELF-HELP FORM PACKET

### Attention



#### New Probate Court and In-Person Location:

Costa Mesa Justice Complex  
3390 Harbor Boulevard  
Costa Mesa, CA 92626



SHC-PB-15 (Rev. 05/01/2023)

Self-Help Services can review your completed forms before you file them with the Court. To request review of your completed forms:

1. Complete the attached forms in black ink.
2. Scan your completed forms and save as a single PDF file.
3. Go to [www.occourts.org/self-help](http://www.occourts.org/self-help) (click the blue button labeled *Click Here to Contact Self-Help Services*), attach the PDF, and complete the online request form. Make sure to select PROBATE as the case type on the form.

# DECEDENT'S ESTATE

## SMALL ESTATE AFFIDAVIT

### COMMON WORDS

**Beneficiary:** A person who inherits when there is a Will and also inherits through intestate succession.

**California Probate Code Sections 13100-13106:** The legal citation for the rules that outline Small Estate Affidavit requirements and procedures.

**Decedent:** The person who died.

**Decedent's Estate:** All real and personal property that a person owned at the time of death.

**Formal Probate:** A court process used to prove the validity of a Will or determine heirs if there isn't a Will.

**Heir:** A person who inherits when there is no Will.

**Intestate:** When someone dies without leaving a Will.

**Intestate succession:** The order of who inherits property when someone dies without a Will.

**Personal Representative:** The person appointed to manage the Estate.

**Small Estate Affidavit:** A sworn written statement that authorizes someone to claim a Decedent's assets outside of the Formal Probate process.

### OVERVIEW

A **Decedent's Estate** refers to all property left behind when a person dies. This packet will cover how to access the **Decedent's** property using a **Small Estate Affidavit**.

A **Small Estate Affidavit** can be used in two scenarios:

1. A **Decedent** died before April 1, 2022, and the **Decedent's Estate** is valued at \$166,250.00 or less.
2. A **Decedent** died on or after April 1, 2022, and the **Decedent's Estate** is valued at \$184,500.00 or less.

This packet includes one **Small Estate Affidavit** template for each of these scenarios. Affidavit 1 may be used if the **Decedent** died before April 1, 2022. Affidavit 2 may be used if the **Decedent** died on or after April 1, 2022.

However, exceptions may exist depending on whether the **Decedent** was survived by a spouse or the type of property in the estate. For example, this process **cannot** be used for real property, like a house or vacant land. These exceptions may require that you use **Formal Probate** instead. It can be difficult to determine whether your case falls within an exception. If you are unsure if a **Small Estate Affidavit** is right for you, please reach out to Self-Help before completing this packet.

A **Small Estate Affidavit** is not filed with the Court. It is given to the person, company, or financial institution that has the **Decedent's** property.

### PROCEDURE

#### Determine the Affidavit You Will Need

- If the **Decedent** died before April 1, 2022, use Affidavit 1.
- If the **Decedent** died on or after April 1, 2022, use Affidavit 2.

#### Determine the Maximum Value of the Decedent's Estate

- If the **Decedent** died before April 1, 2022, the maximum value of the **Decedent's Estate** can be \$166,250.00.
- If the **Decedent** died on or after April 1, 2022, the maximum value of the **Decedent's Estate** can be \$184,500.00.

## Calculate the Value of the Decedent's Estate

### ➤ **Include:**

- All real and personal property.
- All life insurance or retirement benefits that will be paid to the **Decedent's Estate**. Do not include any insurance or retirement benefits designated to be paid to someone else.

### ➤ **Do not include:**

- Cars, boats, or mobile homes.
- Real property outside of California.
- Property held in trust, including a living trust.
- Real or personal property that the **Decedent** owned with someone else.
- Property that passed directly to the surviving spouse or domestic partner.
- Life insurance, death benefits or other property that pass directly to the beneficiaries.
- The debts or mortgages of the **Decedent**.
- Bank accounts owned by multiple persons, including the **Decedent**.

### ➤ **Common Issues When Calculating:**

- The value of the **Decedent's Estate** should be determined based on the value of the property at the time of death, not at the time the **Small Estate Affidavit** is signed.
- A professional appraiser does not need to be hired. The **Beneficiary** can provide a good faith approximate value.
  - Personal Property: Consider the value you would receive for the item in a garage sale.
  - Real Property: Consider similar properties selling in the area.
    - Remember that a **Small Estate Affidavit** cannot be used for real property. Real property is only used to calculate the value of the **Decedent's Estate**.
- Do not include sentimental value when calculating.
- Self-Help Services cannot help you calculate or value the **Decedent's Estate**.

A worksheet to help you calculate the **Decedent's Estate** value is attached.

## ROADMAP



Calculate



Fill Out



Attach



Notarize



Submit



Advocate

## Calculate Number of Days Since Decedent Died

At least 40 days must have passed since the **Decedent** died.

## Complete a Small Estate Affidavit

- **Verification**
  - Make sure that a **Formal Probate** proceeding has not been filed. If it has, you should contact the **Personal Representative** and request written permission to use a **Small Estate Affidavit** to access the **Decedent's** property. If written permission is not granted, you may need to join the **Formal Probate** proceeding.
  
- **Fill Out**
  - **Small Estate Affidavit**
    - Each attached template has a sample guide with instructions on how to complete it.
    - Many banks and other financial institutions have their own affidavit. Please check before using one of these.
    - The **Decedent's** property can be listed in one affidavit, or each item can be listed in separate affidavits.
  
- **Attach**
  - A certified copy of the **Decedent's** death certificate.
  - Proof that the **Decedent** owned the property.
    - Examples: Bank statement, stock certificate
  - Proof of the **Beneficiary's** identity.
    - Examples: Driver's License, Passport
  
- **Notarization**
  - Notarization is not required by law. However, many financial institutions require it as part of their process. To prevent any delays and considering the ease of notarization, most choose to notarize.
  - If there are multiple beneficiaries, each one must sign the affidavit.
  
- **Submit**
  - Give the **Small Estate Affidavit** and any attachments to the person, company, or financial institution that has the **Decedent's** property.
  - If processing time will be required, obtain proof of submission.

## ROADMAP



Calculate



Fill Out



Attach



Notarize



Submit



Advocate

## After Submitting the Small Estate Affidavit

- **The “Letters” Requirement and Rejection**
  - One frequent response after submitting is: “*We need Letters to make the transfer.*” “Letters” is used to refer to a court document proving that someone has been granted the authority to access property in a **Decedent’s Estate** through **Formal Probate**.
  - Another common response is rejection of the **Small Estate Affidavit**. The recipient will not provide any options and will direct the **Beneficiary** to seek legal advice.
- **How should I respond?**
  - Be persistent and ask to speak to a manager or supervisor. Explain how you made the decision the **Small Estate Affidavit** is sufficient.
  - If they are unable to assist, ask to speak to the legal department. Reference **California Probate Code Sections 13100-13106** to encourage their legal staff to research your explanation.

## Document Review

The Self-Help Probate Team offers a free optional document review service for self-represented litigants. As part of this service, an attorney or paralegal will review your documents for completion before filing. **Our staff cannot provide you with legal advice or strategy during this review.** To have your completed documents reviewed, please attach them to your contact request here: [www.occourts.org/self-help/](http://www.occourts.org/self-help/)

## ROADMAP



Calculate



Fill Out



Attach



Notarize



Submit



Advocate

# DECEDENT'S ESTATE VALUE WORKSHEET

**This worksheet will help you calculate the value of the Decedent's Estate. It should not be attached to your Small Estate Affidavit.**

## DECEDENT'S PERSONAL PROPERTY

<p><b><u>Bank Accounts:</u></b></p> <ul style="list-style-type: none"> <li>• <i>List the bank name, account number, and balance for each account.</i></li> </ul>	
<p><b><u>Credit Union Accounts:</u></b></p> <ul style="list-style-type: none"> <li>• <i>List the bank name, account number, and balance for each account.</i></li> </ul>	
<p><b><u>Retirement Accounts:</u></b></p> <ul style="list-style-type: none"> <li>• <i>List the name of the organization holding the account, account number, and balance for each account.</i></li> </ul>	
<p><b><u>Life Insurance Policies:</u></b></p> <ul style="list-style-type: none"> <li>• <i>List the name of the life insurance company holding the account, account number, and balance for each account.</i></li> </ul>	
<p><b><u>Investment Accounts:</u></b></p> <ul style="list-style-type: none"> <li>• <i>List the name of the investment company holding the account, account number, and balance for each account.</i></li> </ul>	
<p><b><u>Other:</u></b></p>	
<p><b>Sub-Total A:</b></p>	<p>\$ _____</p>

**DECEDENT'S REAL PROPERTY**

<p><b><u>Real Property 1:</u></b></p> <ul style="list-style-type: none"> <li>List the Address, Property Value, and other owners (if any)</li> </ul>	
<p><b><u>Real Property 2:</u></b></p> <ul style="list-style-type: none"> <li>List the Address, Property Value, and other owners (if any)</li> </ul>	
<p><b><u>Real Property 3:</u></b></p> <ul style="list-style-type: none"> <li>List the Address, Property Value, and other owners (if any)</li> </ul>	
<p><b><u>Other:</u></b></p> <ul style="list-style-type: none"> <li>List the Address, Property Value, and other owners (if any)</li> </ul>	
<p><b>Sub-Total B:</b></p>	\$ _____

**TOTAL:** \$ \_\_\_\_\_  
**(SUB-TOTAL A + SUB-TOTAL B)**

**AFFIDAVIT FOR COLLECTION OF PERSONAL PROPERTY  
UNDER CALIFORNIA PROBATE CODE SECTIONS 13100-13106**

The undersigned state(s) as follows:

1. (Decedent's Name) \_\_\_\_\_ died on (date) \_\_\_\_\_, in County of \_\_\_\_\_, State of California [before April 1, 2022].
2. At least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit or declaration.
3. (Check one):
  - No proceeding is now being or has been conducted in California for administration of the decedent's estate.
  - The decedent's personal representative has consented in writing to the payment, transfer, or delivery to the affiant or declarant of the property described in the affidavit or declaration.
4. The current gross fair market value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, does not exceed \$166,250.
5. (Check one):
  - An inventory and appraisal of the real property included in the decedent's estate is attached.
  - There is no real property in the estate.
6. The following property is to be paid, transferred, or delivered to the undersigned under the provisions of California Probate Code Section 13100:  
\_\_\_\_\_  
\_\_\_\_\_
7. The successor(s) of the decedent, as defined in California Probate Code Section 13006, is/are:  
\_\_\_\_\_
8. The affiant or declarant (check one):
  - Is/are the successor(s) of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property.
  - Is/are authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent's interest in the described property.
9. No other person has a superior right to the interest of the decedent in the described property.
10. The affiant or declarant requests that the described property be paid, delivered or transferred to the affiant or declarant.

The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name:



## ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF ORANGE

On \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public (Seal)

# [USE ONLY IF DECEDENT DIED BEFORE APRIL 1, 2022]

## AFFIDAVIT FOR COLLECTION OF PERSONAL PROPERTY UNDER CALIFORNIA PROBATE CODE SECTIONS 13100-13106

KEY:

**i** = Important Information

The undersigned state(s) as follows:

1. (Decedent's Name) John Doe died on (date) Day of Decedent's Death, in County of County of Decedent's Death, State of California [before April 1, 2022].

2. At least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit or declaration.

3. (Check one): **Mark A if no Formal Probate proceeding has been opened on behalf of the Decedent's Estate.**

**A**  No proceeding is now being or has been conducted in California for administration of the decedent's estate.

**B**  The decedent's personal representative has consented in writing to the payment, transfer, or delivery to the affiant or declarant of the property described in the affidavit or declaration.

**Mark B if Formal Probate has been opened on behalf of the Decedent's Estate and the Personal Representative has agreed to use a Small Estate Affidavit in writing.**

4. The current gross fair market value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, does not exceed \$166,250.

5. (Check one):

**A**  An inventory and appraisal of the real property included in the decedent's estate is attached.

**B**  There is no real property in the estate.

**i** The process we explain in this packet cannot be used for real property.

6. The following property is to be paid, transferred, or delivered to the undersigned under the provisions of California Probate Code Section 13100:

**Make sure to list the name of the person or business holding the Decedent's property requested and specifically identify the property-- account number, pension/brokerage account name, etc.)**

**Example: Bank of America, Platinum Checking Account, Account Number: 123456789**

7. The successor(s) of the decedent, as defined in California Probate Code Section 13006, is/are:

**List the legal name of the Beneficiary. Remember it must match the form of identification a Beneficiary will attach.**

8. The affiant or declarant (check one): **Mark A if the Beneficiary was named the Beneficiary in a will or if the Decedent died without a will and the Beneficiary is the person next in line to inherit.**

**A**  Is/are the successor(s) of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property.

**B**  Is/are authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent's interest in the described property.

**Mark B if the Beneficiary was previously granted other legal authority through the court or legal documents. For example via Conservatorship, Trust, or Power of Attorney.**

9. No other person has a superior right to the interest of the decedent in the described property.

**i** This means no one else is entitled to the property aside from the person(s) listed on Item 7.

10. The affiant or declarant requests that the described property be paid, delivered or transferred to the affiant or declarant.

**i** Tells the recipient to release the property to the person(s) listed on Item 7.

The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct. **i** The person signing agrees to be legally responsible for false statements made anywhere on this form.

Dated: MM/DD/YYYY

Declarant Signature

Name: Declarant Printed Name

**i** Sign in front of a Notary.

Dated: \_\_\_\_\_

Name: \_\_\_\_\_

**i** If more than one Declarant each one must sign. Attach an additional blank page for additional signatures, if necessary.

## ACKNOWLEDGEMENT

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**i** This is only an example of a notarization form. Most notaries will have their own Acknowledgment Form.

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COUNTY OF ORANGE

On \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public (Seal)

**AFFIDAVIT FOR COLLECTION OF PERSONAL PROPERTY  
UNDER CALIFORNIA PROBATE CODE SECTIONS 13100-13106**

The undersigned state(s) as follows:

1. (Decedent's Name) \_\_\_\_\_ died on (date) \_\_\_\_\_, in County of \_\_\_\_\_, State of California [on or after April 1, 2022].

2. At least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit or declaration.

3. (Check one):

- No proceeding is now being or has been conducted in California for administration of the decedent's estate.
- The decedent's personal representative has consented in writing to the payment, transfer, or delivery to the affiant or declarant of the property described in the affidavit or declaration.

4. The current gross fair market value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, does not exceed \$184,500.

5. (Check one):

- An inventory and appraisal of the real property included in the decedent's estate is attached.
- There is no real property in the estate.

6. The following property is to be paid, transferred, or delivered to the undersigned under the provisions of California Probate Code Section 13100:

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7. The successor(s) of the decedent, as defined in California Probate Code Section 13006, is/are:

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8. The affiant or declarant (check one):

- Is/are the successor(s) of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property.
- Is/are authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent's interest in the described property.

9. No other person has a superior right to the interest of the decedent in the described property.

10. The affiant or declarant requests that the described property be paid, delivered or transferred to the affiant or declarant.

The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name:

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public (Seal)

[USE ONLY IF DECEDENT DIED ON OR AFTER APRIL 1, 2022]

AFFIDAVIT FOR COLLECTION OF PERSONAL PROPERTY UNDER CALIFORNIA PROBATE CODE SECTIONS 13100-13106

KEY: (i) = Important Information

The undersigned state(s) as follows:

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2. At least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit or declaration.

Mark A if no Formal Probate proceeding has been opened on behalf of the Decedent's Estate.

3. (Check one):

- A [X] No proceeding is now being or has been conducted in California for administration of the decedent's estate.
B [ ] The decedent's personal representative has consented in writing to the payment, transfer, or delivery to the affiant or declarant of the property described in the affidavit or declaration.

Mark B if Formal Probate has been opened on behalf of the Decedent's Estate and the Personal Representative has agreed to use a Small Estate Affidavit in writing.

4. The current gross fair market value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, does not exceed \$184,500.

5. (Check one):

- A [ ] An inventory and appraisal of the real property included in the decedent's estate is attached.
B [X] There is no real property in the estate.

(i) The process we explain in this packet cannot be used for real property.

6. The following property is to be paid, transferred, or delivered to the undersigned under the provisions of California Probate Code Section 13100:

Make sure to list the name of the person or business holding the Decedent's property requested and specifically identify the property-- account number, pension/brokerage account name, etc.

Example: Bank of America, Platinum Checking Account, Account Number: 123456789

7. The successor(s) of the decedent, as defined in California Probate Code Section 13006, is/are:

List the legal name of the Beneficiary. Remember it must match the form of identification a Beneficiary will attach.

8. The affiant or declarant (check one): Mark A if the Beneficiary was named the Beneficiary in a will or if the Decedent died without a will and the Beneficiary is the person next in line to inherit.

- A [X] Is/are the successor(s) of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property.
B [ ] Is/are authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent's interest in the described property.

Mark B if the Beneficiary was previously granted other legal authority through the court or legal documents.

For example via Conservatorship, Trust, or Power of Attorney.

9. No other person has a superior right to the interest of the decedent in the described property.

(i) This means no one else is entitled to the property aside from the person(s) listed on Item 7.

10. The affiant or declarant requests that the described property be paid, delivered or transferred to the affiant or declarant.

(i) Tells the recipient to release the property to the person(s) listed on Item 7.

The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(i) The person signing agrees to be legally responsible for false statements made anywhere on this form.

(i) Sign in front of a Notary.

Dated: MM/DD/YYYY

Declarant Signature

Name: Declarant Printed Name

Dated:

Name:

(i) If more than one Declarant each one must sign. Attach an additional blank page for additional signatures, if necessary.

## ACKNOWLEDGEMENT

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**i** This is only an example of a notarization form. Most notaries will have their own Acknowledgment Form.

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On \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
(Seal)  
Signature of Notary Public