

**KITSAP COUNTY CLERK'S OFFICE
PROCEDURE**

SMALL ESTATE SETTLEMENT BY AFFIDAVIT

Washington law provides simple alternative to formal probate for collection and distribution of a deceased person's personal property. Using this procedure, the person entitled to the deceased's personal property obtains it by presentation of an Affidavit of Successor to persons and institutions holding the deceased's property. The procedure applies only to small estates where the value of the decedent's entire probate estate does not exceed \$100,000. The decedent's estate includes his or her separate property and one-half of all community property (both real property and personal property), less liens and encumbrances.

There must be no controversy among heirs or difficulties of collection. Title to real estate cannot be changed by this procedure. Forty days must pass after the decedent's death before this procedure may be used. Ten days written notice must be given to all other successors. The affidavit or a copy thereof must be mailed to the State of Washington, Department of Social and Health Services, Office of Financial Recovery (address listed on page 2). No inheritance tax release is required but all debts of the decedent must have been paid or provided for.

Current versions of the law should be consulted as they are subject to change each time the legislature is in session.

FEES

Forms for purchase \$1.00
Filing Fee (if desired). \$20.00

SMALL ESTATE SETTLEMENT BY AFFIDAVIT PROCEDURE:

- 1) Qualifications and requirements for Small Estate Settlement by Affidavit:
 - a) Decedent must have been deceased for at least forty days;
 - b) the value of the decedent's entire probate estate must not exceed \$100,000.00. The decedent's estate includes his or her separate property and one-half of all community property (both real property and personal property), less liens and encumbrances.
 - c) the petitioner must provide written notice to all other successors, including identification of the claim and description of the property claimed, at least ten days prior to filing the affidavit;
 - d) there must be no controversy among heirs; and
 - e) all debts of the estate must be paid.
- 2) If filing in the Clerk's Office is desired, petitioner pays a \$20.00 filing fee to the County Clerk's Office. A probate number is issued by the Clerk.
- 3) Completed affidavit must be mailed to:

State of Washington, Department of Social and Health Services
Office of Financial Recovery
PO Box 9501
Olympia, WA 98507 - 9501

RCW 11.62

(1) At any time after forty days from the date of a decedent's death, any person who is indebted to or who has possession of any personal property belonging to the decedent or to the decedent and his or her surviving spouse as a community, which debt or personal property is an asset which is subject to probate, shall pay such indebtedness or deliver such personal property, or so much of either as is claimed, to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by said person which meets the requirements of subsection (2) of this section.

(2) An affidavit which is to be made pursuant to this section shall state:

(a) The claiming successor's name and address, and that the claiming successor is a "successor" as defined in RCW [11.62.005](#);

(b) That the decedent was a resident of the state of Washington on the date of his or her death;

(c) That the value of the decedent's entire estate subject to probate, not including the surviving spouse's community property interest in any assets which are subject to probate in the decedent's estate, wherever located, less liens and encumbrances, does not exceed one hundred thousand dollars;

(d) That forty days have elapsed since the death of the decedent;

(e) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(f) That all debts of the decedent including funeral and burial expenses have been paid or provided for;

(g) A description of the personal property and the portion thereof claimed, together with a statement that such personal property is subject to probate;

(h) That the claiming successor has given written notice, either by personal service or by mail, identifying his or her claim, and describing the property claimed, to all other successors of the decedent, and that at least ten days have elapsed since the service or mailing of such notice; and

(i) That the claiming successor is either personally entitled to full payment or delivery of the property claimed or is entitled to full payment or delivery thereof on the behalf and with the written authority of all other successors who have an interest therein.

(3) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to be the successor with respect to such security upon the presentation of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section. Any governmental agency required to issue certificates of ownership or of license registration to personal property shall issue a new certificate of ownership or of license registration to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section.

(4) No release from any Washington state or local taxing authority may be required before any assets or debts are paid or delivered to a successor of a decedent as required under this section.

(5) A copy of the affidavit, including the decedent's social security number, shall be mailed to the state of Washington, department of social and health services, office of financial recovery.