How to Claim the Personal Property of Someone Who Has Died:
Do-It-Yourself Affidavit Procedure for Small Estates

How do I use this packet?
This packet has four parts.

- **Part 1** answers questions so you know whether the affidavit procedure is right for your claim to property.
- **Part 2** gives instructions on how to get the property using the procedure.
- **Part 3** has sample forms for you to use in making an affidavit and claiming your property.
- **Part 4** directs you to further information and help.

You should always try to talk to a lawyer before any legal procedure. However, if your claim is simple and no one will challenge it, this packet should help you get your property with the least expense.

This packet refers to the deceased person as the "decedent." The law on the affidavit procedure is found in the Revised Code of Washington (RCW) at [RCW 11.62.010](https:// laws.wa.gov章节/11.62.010). It is online and at your local library.

**QUESTIONS AND ANSWERS**

**What is the affidavit procedure?**
It allows people who are entitled to a dead person’s (also called a decedent) personal property to get that property without going through probate. You fill out an affidavit and deliver it to the person or organization holding the property.

The procedure does not apply to real property, like a house or land. (Not all mobile homes are real property. Talk to a lawyer if a mobile home is involved.) Personal property is anything that is not real property.

**Who is a "successor," or person entitled to the decedent's property?**

**If there is a will,** the property generally goes to the people as directed by the will. There are some exceptions to that rule.

The most common exceptions are surviving spouses or state-registered domestic partners and unmentioned children of the deceased. Surviving spouses and state registered domestic partners are entitled to half the community property even if not named in the will. Property of spouses and state-registered domestic partners is assumed community property unless there is evidence that it is separate. Children of the decedent, regardless of age, whom the will does not exclude (disinherit) may have an interest in the property, even if not named in the will.

If there are questions as to the interpretation or interests of the will, talk to a lawyer who can let you know whether you can have the property you want to claim. Some lawyers or bar associations provide free or reduced-fee consultations for
seniors or low-income people. Your local bar association may have more information.

If there is no will (intestacy), the property passes according to the law. The surviving spouse or the state-registered domestic partner gets all of the community property, PLUS half the separate property if any of the decedent’s children is still alive, OR three-quarters of the separate property if there are no children, but one or both of the decedent's parents are alive. If there are no surviving children or parents, all of the estate goes to the surviving spouse or state-registered domestic partner.

The law divides property not going to the surviving spouse or the state-registered domestic partner, or the entire net estate if there is no surviving spouse or state-registered domestic partner, as follows:

- To the decedent's children, in equal shares. If one or more children have died, that child's children (the decedent's grandchildren) split the deceased child's share equally;
- If there are no surviving children, then to surviving parents;
- If no surviving parents, then to surviving siblings in equal shares. If one or more siblings have died, that sibling's children (the decedent’s nieces and nephews) split equally the sibling’s share;
- If no surviving siblings, then to surviving grandparents;
- If no surviving grandparents, then to aunts or uncles. If one or more aunts/uncles have died, that aunt/uncle’s children (the decedent's cousins) split equally the aunt/uncle's share;
- If none of the above survive the deceased, then to the State of Washington.

One level must be completely eliminated before you go on to the next. Example: The decedent’s siblings are not entitled to any property if ANY child, grandchild, or parent of the decedent is still alive. People not on this list, such as the decedent’s friends, are not entitled to the decedent's property in the probate estate.

Whether or not there is a will, property must first be used to satisfy any unpaid debts or obligations of the decedent. This includes any money paid out by the Department of Social and Health Services (DSHS) for medical care.

Creditors (except DSHS) are not successors. They cannot use the affidavit procedure unless they are entitled to the property because of one of the relationships listed above.

Who is a “state-registered domestic partner?”

A state-registered domestic partner is a person who:

- meets the criteria for a domestic partnership and
- has entered into a “declaration of state registered domestic
partnership,” through the Washington State Secretary of State, with the decedent.

If either the domestic partner or the decedent ended the state-registered domestic partnership by filing a “notice of termination of state registered domestic partnership” with the Secretary of State, then that person is no longer a state-registered domestic partner.

Can I use the affidavit procedure?
Yes, if you meet all the following conditions:

- The value of the decedent's probate estate, minus debts and liens, is no more than $100,000;
- You are entitled to the property as a successor;
- The decedent lived in Washington at the time of death;
- It is at least forty days since the death;
- There is no application or petition (court papers) for the appointment of a personal representative;
- All the decedent's debts, including funeral and burial expenses, have been paid or provided for;
- The affidavit has a description of the property claimed, and a statement that the property is subject to probate;
- You have given written notice, by personal service or mail, to all the decedent’s other successors. The notice must identify the heir’s claim and describe the claimed property, and at least ten days have passed since that notice was served or mailed.

Who are the other successors I must notify?
You must notify anyone possibly entitled to all or part of the probate estate. Refer back to the section called, “Who is a successor” to figure out who to notify. If the other successors want to have you get the property through affidavit on their behalf, they must sign an authorization form. A blank authorization form is in this packet.

What property do I include for purposes of the affidavit procedure?
You may claim any personal property in the decedent’s "probate estate.” The probate estate includes all personal property except property automatically passing to someone upon the decedent's death. The most common examples of property not included in the probate estate are:

- Property passing through a community property agreement
- Property held in joint tenancy with a right of survivorship
- Property distributed under certain types of trusts, such as a "living trust"
- Property automatically distributed to a designated beneficiary, like life insurance and some employee
benefits

- Property passing to a surviving spouse through state community property laws

What if someone else claims the same property, or the person(s) or organization(s) holding the property refuse to deliver the property?

**Talk to a lawyer.** If you are a successor who gets notice that someone else is claiming property you think should be yours, send a letter to the person claiming the property and to whomever holds the property. If you and the claiming party cannot agree about ownership, you may have to go to court.

If the one holding the property refuses to give it to you after you have followed the steps below, you can go to court to get it.

**The decedent had money in a bank account. The bank will not release the money. I have correctly followed the affidavit procedure. What can I do?**

If the amount in the bank account is $2,500 or less, a spouse or next of kin may claim the money for the decedent’s estate. The spouse or next of kin must follow the instructions below, and then send a copy of the affidavit, death certificate and a copy of R.C.W. 30.22.190 (2) to the bank. (A copy of R.C.W. 30.22.190 (2) is in this packet.) If this does not work, talk to a lawyer.

**STEP-BY-STEP INSTRUCTIONS**

1. Make sure that all the decedent's debts have been paid. If you cannot get at money or other property you need to take care of the debts, you or another successor could pay the debts, and then file an affidavit to get back what you spent plus any other property you are entitled to. Keep written records and receipts of any debts you pay on the decedent's behalf. If no one can afford to pay the debt while waiting for reimbursement, you will probably have to see a lawyer and go to court to get the authority to pay the debts out of the estate. You cannot file an affidavit for property until the debts have been paid.

2. Figure out the value of the decedent's probate estate. List and value any personal property in the probate estate. Include all property subject to probate: boats, cars, other vehicles, jewelry, furniture, other household and personal belongings, bank accounts, stocks, bonds, and other personal property. To figure out if the property should go through probate, see the section above called "What property is included for purposes of the affidavit procedure?" Personal property may add up to more than you thought. You can subtract from the value of the property any unpaid debts or liens, such as money still owed for a car. The total value must be no more than $100,000. If the
value is close, you should be able to show how you got the valuations for the property. Example: In valuing a vehicle, you should copy the page out of the Blue Book you used.

3. Be sure it has been forty days since the decedent’s death.

4. Make sure no one in any State has applied to be appointed as personal representative of the decedent’s estate. Ask any other successors you know of whether they have applied or know if anyone else has applied. After you have talked to the other successors, send each of them a letter stating you understand that they have not started a probate. Keep a copy of these letters for your records. This will help prove you believed no one else made an application.

5. Make sure you are the only person entitled to any part of the property you are claiming. Read the section above called “Who is a ‘successor’ or person entitled to the decedent’s property?” If someone else is entitled to all or part of the property and you still wish to claim it, get the other successor’s written authorization. Use the blank form in this packet.

6. Use the blank letter in this packet to notify any other successor that you are claiming property. Describe the property in the letter. You must deliver this letter personally or mail it. Use certified mail, return receipt requested, to prove you mailed the letter. Keep a dated copy of the letter for yourself. Wait ten days after mailing or delivering the last of the letters.

7. Fill out the blank affidavit form in this packet in front of a notary. Do not sign it until the notary tells you to. After the affidavit is notarized, make at least two copies. Keep one copy.

8. Mail the other copy, including the decedent’s social security number, to:
   Department of Social and Health Services
   Office of Financial Recovery
   Box 9501
   Olympia, WA 98507-9501
   Mail it via certified mail, return receipt requested. Keep a copy of the return receipt when you get it back.

9. Deliver the affidavit, along with a copy of the decedent’s death certificate, to the person(s) or organization(s) (like the bank where the decedent’s account is) holding the property or owing the debt you are claiming. If the property is a vehicle, send the affidavit to the person holding the title. They should then turn property or payment over to you, and (where appropriate), they should have a new certificate of ownership and/or license registration issued in your name upon showing the transfer of ownership. Get the decedent’s death certificate from the county health department. (There will be a small charge.) After 30 days you can get a death certificate.
from the Center for Health Statistics of the Washington State Department of Health. Call them at (360) 753-5936 or write to P.O. Box 7814, Olympia, WA 98504-7814.

**BLANK FORMS**

The following blank forms are provided for your convenience at the end of this packet:

- Form to Claim Property on Behalf of Another
- Notice to Other Successors
- Affidavit

**What if I need legal help?**

- Apply online with CLEAR*Online - http://nwjustice.org/clear-online or
call CLEAR at 1-888-201-1014

CLEAR is Washington’s toll-free, statewide intake, advice and referral service for low-income people looking for free legal help with civil legal problems.

- **Outside King County:** Call 1-888-201-1014 weekdays from 9:10 a.m.

until 12:25 p.m. CLEAR works with a language line to provide free interpreters as needed. If you are deaf or hard of hearing, call 1-888-201-1014 using your preferred TTY or Video relay service.

- **King County:** Call 211 for information and referral to a legal services provider Monday through Friday from 8:00 am – 6:00 pm. Or call (206) 461-3200, or the toll-free number1-877-211-WASH (9274). 211 works with a language line to provide free interpreters as needed. If you are deaf or hard of hearing, call 1-800-833-6384 or 711. You will get a free relay operator, who will then connect you with 211. You can also find information on King County legal service providers on 211’s website: www.resourcehouse.com/win211/.

- **If you are age 60 or Over:** Call CLEAR*Sr. at 1-888-387-7111, regardless of your income.

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Form to Claim Property on Behalf of Another

I, ______________________ (non-claiming successor’s full name) hereby authorize
________________________ (claiming successor’s full name) to file an affidavit and claim on my behalf for
the following property: ____________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

By authorizing this claim, I am not releasing my right to the property.

Signed this ___________ day of _____________________, 20____.

____________________
(Signature of Nonclaiming Successor)
Notice to Other Successors

I hereby notify you pursuant to RCW 11.62.010 that I am claiming the following property:

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

☐ I believe I am entitled to this property because ________________________________ or

☐ I believe that the following people are entitled to this property because
________________________________________________________________________________________

________________________________________________________________________________________, and I am claiming it for them and will divide it when I get it.

I will be mailing an affidavit to claim this property ten days after I mail or deliver this letter to you.

Mailed or Delivered this ______________day of __________, 20_____.

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

(Signature & address of claiming successor)
AFFIDAVIT OF _____________________

FOR DISTRIBUTION OF DECEDENT'S PROPERTY

State of _____________________
)ss.
County of _____________________

I, ________________________________, being first duly sworn upon oath, declare that:

1. I wish to claim property of the deceased, ________________________________, (decedent's full name), whose Social Security Number is ________________________________, and who was a resident of the state of Washington on the date of his or her death.

2. I am a successor as defined in RCW 11.62.005. My name and address are as follows:

3. 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 $100,000.
4. At least forty days have elapsed since the decedent's death.

5. No application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction.

6. All debts of the decedent including funeral and burial expenses have been paid or provided for.

7. I am claiming the following portions of the following property: __________________________
   ____________________________________________________________________________
   ____________________________________________________________________________
   ____________________________________________________________________________
   ____________________________________________________________________________
   All of this property is subject to probate.

8. I have personally served or mailed written notice to all other successors of the decedent identifying my claim and describing the property claimed. At least ten days have passed since the service or mailing of such notice.

9. I am entitled to full payment or delivery of the property claimed on my own behalf, and on the behalf of any other successor from whom I have attached to this affidavit a written authorization.

Signed this ________ day of ______________________, 20____.

__________________________________________________________________________
(your signature)

__________________________________________________________________________
(print or type name)

SIGNED AND SWORN to before me on ________________, 20____, by ________________________.

__________________________________________________________________________
(Signature)

__________________________________________________________________________
(Please print name legibly)
NOTARY PUBLIC in and for the State of Washington, residing at ________________________
My appointment expires: ____________________