Claiming the Personal Property of Someone Who Has Died
Do-It-Yourself Affidavit Procedure for Small Estates

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

- **Section 1**: find out if this procedure is right for you.
- **Section 2**: explains how to use the procedure.
- **Section 3**: lists the forms you need for the procedure (forms are attached).
- **Section 4**: has contact info for more help.

Try to talk to a lawyer to see if this procedure is right for you. If your claim is simple and no one will challenge it, this packet should help you get your property with the least expense.

- The person who died is the “decedent.”
- The law on the affidavit procedure is in the Revised Code of Washington (RCW) at [RCW 11.62.010](https://apps.leg.wa.gov/statutes/cws/default.aspx?cite=11.62.010). It is online and at your local library.

Section 1: Questions and Answers

**A. What is the affidavit procedure?**

It allows someone entitled to a decedent’s personal property to get that property without going through probate. **Probate** is a court process that takes time and money. Instead, you fill out an affidavit (a form you sign under penalty of perjury) and deliver it to the person or organization that has the property.

- **Do not use this for real property**, like a house or land.
- **If a mobile home is involved, talk to a lawyer.**

**B. Successors: Who is entitled to the property?**

A successor is someone entitled to the decedent's property. Who the successors are in a case will vary.

**If the decedent left a will** - The will generally directs who gets the property, except:
• **Surviving spouses and domestic partners** are entitled to half the community property even if the will does not name them. Property of spouses and domestic partners is community property unless there is evidence that it is separate.

• Any of the **decedent’s children** whom the will does not specifically cut out may have an interest in the property, even if the will does not name them.

  ❖ Talk to a lawyer who can tell you if you can have the property you want. Some lawyers or bar associations provide free or reduced-fee consultations for seniors or people with a low income. Your local bar association may have more info.

**If there is no will** (intestacy), [RCW 11.04.015](#) says how the property will pass. The surviving spouse or domestic partner gets all the community property, PLUS

• 1/2 the separate property if any of decedent’s children are still alive.

• 3/4 of the separate property if there are no children but at least one of decedent’s parents is alive.

• 3/4 of the separate property if no children by any of decedent’s siblings are still alive.

  ❖ If there are no surviving children, parents, siblings, nieces or nephews, the surviving spouse or domestic partner gets all the estate.

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

• To the decedent’s **children**, in equal shares. If a child has 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 children or parents, then to surviving **siblings** in equal shares. If a sibling has died, the sibling’s children (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 an aunt or uncle has died, his or her children (decedent’s cousins) split equally the aunt or uncle’s share.

• If none of the above survive the deceased, then to the **State of Washington**.

You must eliminate one level before you go to the next. **Example**: Decedent’s siblings are not entitled to any property if ANY child, grandchild, or parent of decedent is still alive.
People not on this list, such as friends, are only entitled to whatever the will leaves them, if anything.

C. Are creditors successors?

Will or no will, decedent’s property must first go to pay any of decedent’s unpaid debts or obligations. This includes money Department of Social and Health Services (DSHS) paid out for decedent’s medical care.

D. Who is a domestic partner?

You are a domestic partner if both these are true:

- You and decedent registered your domestic partnership, with the Washington State Secretary of State. See RCW 26.60.
- A court had not dissolved the partnership before decedent passed away.

E. Can I use the affidavit procedure?

Yes, if all these are true:

- The value of decedent’s estate, minus encumbrances and liens, is no more than $100,000.
- You are entitled to the property as a successor.
- Decedent lived in Washington at the time of death.
- At least forty days have passed since the death.
- No one has filed for the court to appoint a personal representative.
- All decedent’s debts, including funeral and burial expenses, have been paid or provided for.
- You have given written notice, by hand delivery or mail, to all other successors. Use the Notice to Other Successors in this packet. The notice must identify the heir’s claim and describe the claimed property.
- At least ten days must have passed since you had that notice delivered or mailed.

F. Who do I notify?

You must notify anyone possibly entitled to any of the estate using the Notice to Other Successors in this packet. “Who is a successor,” above, explains how to figure out who to notify. This can be complicated. Try to talk to a lawyer.

Other successors may want you to get the property through affidavit on their behalf. They must sign the Form to Claim Property on Behalf of Another in this packet.
G. What property do I include for the affidavit procedure?

You can claim any personal property in decedent’s estate. This can include boats, cars, other vehicles, jewelry, furniture, other household and personal items, bank accounts, stocks, and bonds.

H. What property do I leave out of the affidavit procedure?

Do not include property automatically passing to someone upon decedent’s death, such as:

- 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 named beneficiary, like life insurance and some employee benefits
- Property passing to a surviving spouse through state community property laws

I. What if someone else claims the same property, or whoever has the property refuses to deliver it?

Talk to a lawyer. If someone sends you notice that they are claiming property you think should be yours, send letters to that person and whoever has 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 will not give it up after you have followed the steps below, you can go to court to get it.

J. The decedent had a bank account. The bank will not release the money. What can I do?

As long as the account holds $100,000 or less, you can claim it for decedent’s estate using the affidavit procedure IF you are decedent’s spouse or next-of-kin. If the bank account holds $2,500 or less, you can use a different affidavit. See RCW 30A.22.190(2).

If this does not work, talk to a lawyer.
Section 2: Step-By-Step Instructions

1. **You must take care of decedent’s debts before filing an affidavit for property.** If you cannot get at decedent’s assets to pay decedent’s debts, you or another successor could pay the debts yourselves. Keep records and receipts of whatever you pay. You would then file an affidavit to get back what you spent plus any other property you believe you should get. If no one can afford to pay decedent’s debt right now, you should probably see a lawyer and go to court to get permission to pay the debts out of the estate.

2. Figure out the value of decedent’s estate. List and value any personal property in the estate. To figure out what to list, see "What property do I include for the affidavit procedure," above. It may add up to more than you thought. You can subtract from the property’s value any unpaid 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 must show how you got the valuations for the property. **Example:** In valuing a vehicle, copy the page from the Blue Book you used.

3. Be sure forty days have passed since the decedent’s death.

4. Make sure no one else has started a probate of decedent’s estate. Ask all other successors you know if they have applied or know if anyone else has. After talking to the other successors, send each a letter confirming they have not started a probate. Keep a copy of these letters for your records.

5. Make sure you are the only person entitled to any of the property you are claiming. Read “Who is a successor” above. If someone else is entitled to all or part of the property, you must get their written authorization to claim it for yourself. Use the blank Notice to Other Successors at the end of this packet.

6. Use the blank **Notice to Other Successors** in this packet to notify any other successor that you are claiming property. The letter must describe the property. You must hand-deliver this letter OR use certified mail, return receipt requested, for proof you mailed it. 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 Small Estates Affidavit in this packet in front of a notary. **Sign it when the notary tells you to.** Make at least two copies. Keep one for yourself.

8. Mail the other notarized copy, including decedent’s social security number, to:
   Department of Social and Health Services
   Office of Financial Recovery
   Box 9501
   Olympia, WA  98507-9501

9. Mail it via certified mail, return receipt requested. Keep a copy of the return receipt when you get it back.
10. Deliver the affidavit, a copy of decedent's death certificate, and a copy of **RCW 11.62.010** to whoever (like the bank where decedent's account is) has the property or owes the debt you are claiming. If the property is a vehicle, send the person holding the title the affidavit. They should turn property or payment over to you. Where appropriate, they should have a new certificate of ownership and/or license registration issued in your name.

FAQ: **How do I get 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 P.O. Box 7814, Olympia, WA 98504-7814.

Section 3: Blank Forms

This packet has these blank forms:

11. Form to Claim Property on Behalf of Another

12. Notice to Other Successors

13. Small Estates Affidavit

There is also a copy of **RCW 11.62.010** at the end of the forms.

Section 4: What if I need legal help?

- Apply online with CLEAR*Online - [https://nwjustice.org/get-legal-help](https://nwjustice.org/get-legal-help)

- Call CLEAR at 1-888-201-1014

CLEAR is Washington’s toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems.

- **Outside King County:** Call 1-888-201-1014 weekdays, 9:15 a.m. - 12:15 p.m.

- **King County:** Call 211 for info and referral to an appropriate legal services provider weekdays, 8:00 am – 6:00 pm. You may also call (206) 461-3200, or toll-free 1-877-211-WASH (9274). You can also get info on legal service providers in King County at [www.resourcehouse.com/win211/](http://www.resourcehouse.com/win211/).

- Persons 60 and Over: Seniors age 60 or over may call CLEAR*Sr at 1-888-387-7111, regardless of income. Assets limits may apply. Seniors in King County may call 2-1-1.

Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 (or toll-free 1-877-211-9274) using the relay service of your choice.

CLEAR and 211 will conference in free interpreters when needed.
Free legal education publications, videos and self-help packets covering many legal issues are available at WashingtonLawHelp.org.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of February 2019.

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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 the following people are entitled to this property because

________________________________________________________________________________________________________

_________________________. 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)
Small Estates Affidavit

AFFIDAVIT OF __________________________

(Successor’s name)

FOR DISTRIBUTION OF DECEDENT’S PROPERTY

State of _____________

)ss.

County of _____________

I (successor’s name), ________________________, 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 Washington state resident on the date
   of his/her death.

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

   __________________________________________
   __________________________________________
   __________________________________________
   __________________________________________

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 the decedent’s other successors 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: ______________________
RCW 30A.22.190

In each case, where it is provided in RCW 30.22.180 that a financial institution may make payment of funds deposited in an account to the personal representative of the estate of a deceased depositor or beneficiary, the financial institution may make payment of the funds to the following persons under the circumstances provided:

(1) In those instances where the deceased depositor left a surviving spouse, and the deceased depositor and the surviving spouse shall have executed a community property agreement which by its terms would include funds of the deceased depositor remaining in the account, a financial institution may make payment of all funds in the name of the deceased spouse to the surviving spouse upon receipt of a certified copy of the community property agreement as recorded in the office of a county auditor of the state and an affidavit of the surviving spouse that the community property agreement was validly executed and in full force and effect upon the death of the depositor.

(2) In those instances where the balance of the funds in the name of a deceased depositor does not exceed two thousand five hundred dollars, payment of the decedent's funds remaining in the account may be made to the surviving spouse, next of kin, funeral director, or other creditor who may appear to be entitled thereto upon receipt of proof of death and an affidavit to the effect that no personal representative has been appointed for the deceased depositor's estate. As a condition to the payment, a financial institution may require such waivers, indemnity, receipts, and acquittance and additional proofs as it may consider proper.

(3) In those instances where the person entitled presents an affidavit which meets the requirements of chapter 11.62 RCW.

A person receiving a payment from a financial institution pursuant to subsections (2) and (3) of this section is answerable and accountable therefor to any personal representative of the deceased depositor's estate wherever and whenever appointed.

[1989 c 220 § 3; 1981 c 192 § 19.]