

Manage a small estate yourself

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Use this guide to get the personal property of your loved one after they die if the estate is small enough. In Washington, an estate with less than \$100,000 in probate assets can be settled using a simple process and a Small Estate Affidavit form.

1. Definitions

When someone dies, their belongings, property, and debts need to be dealt with and distributed. If the person leaves a valid Will (called “dying testate”) or another legal document that instructs what to do when they die, that document should be followed. If the person dies without a valid Will (called “dying intestate”), then usually Washington State’s intestacy law (RCW 11.04.015 (<https://app.leg.wa.gov/RCW/default.aspx?cite=11.04.015>)) and other probate laws (<https://app.leg.wa.gov/rcw/default.aspx?cite=11>) will apply.

Probate is one legal way that a deceased person's estate is dealt with after they die (called "settling" or "closing" the estate). Probate can happen whether you have a Will or not. Probate involves the court, judges, letters testamentary, filings and hearings. Probate isn't required in Washington for every situation, but is often necessary if real property is involved or you need letters testamentary.

An estate includes anything you own at the time of your death. This can include your home (but only the part you own, if you own it with someone else), any other buildings or land you own, vehicles, bank accounts, personal property, and intangible personal property like stocks or bonds.

A Will is legal document that can give instructions for:

- The disposition of your body
- Your funeral plans
- The inheritance of your property
- The settling of your debts
- The care of loved ones left behind like children and pets
- The distribution of your belongings

These are some important Will related terms:

- A **testator** is the person who writes a Will.
- A Will should name an **executor**. An **executor** is a person who manages the responsibility of the Will for a deceased person. The executor can also be called the **personal representative**.
- A deceased person is also called the **decedent**.

- A **successor** is someone who inherits something. It's common to use the word successor instead of **heir**.
- A **beneficiary** is someone who is given something in a Will or other legal document. Beneficiaries are sometimes also called "Interested Parties".
- A **witness** is a person who witnessed the testator sign the original Will and then attests that they witnessed the signing of the Will.
- The signing of a Will is called **executing** the Will.

If you have the Will of someone who died, it doesn't necessarily have to go through probate. It will depend on the situation. You still will have to file the Will with the right court if you have it in your possession when the person dies **and** you're the executor. Filing the Will with the court doesn't automatically start probate.

Under [11.20.010](https://app.leg.wa.gov/RCW/default.aspx?cite=11.20.010) (<https://app.leg.wa.gov/RCW/default.aspx?cite=11.20.010>), you should give any Will in your possession to the court **or** the executor **within 30 days** of when you find out that the testator died. If you have the Will of someone who died **and you're the executor**, the Will **must** be given to the court that has jurisdiction within 40 days of the death of the testator. The court with jurisdiction is usually the one where the property is located or the testator lived.

2. Process

The Small Estate Affidavit process is a state law (<https://app.leg.wa.gov/RCW/default.aspx?cite=11.62>) (<https://app.leg.wa.gov/RCW/default.aspx?cite=11.62>) that lets someone legally entitled to inherit or claim a decedent's **personal property** get that property without going through probate. **Probate** is a court process that takes time and money. Even if there's a Will, you can still use the Small Estate Affidavit process if the situation meets the requirements ().

To use the Small Estate Affidavit process instead of probate, 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. The form is usually called an Affidavit of Successor form.

(https://ofm.wa.gov/sites/default/files/public/legacy/resources/payroll/PRAffidavitofSuccessor_

The same form and process can have many names, including these: Affidavit of Successor of Decedent, Affidavit for Disposition of Personal Property, Personal Property Affidavit, Affidavit for the Transfer of Decedent's Personal Property, Affidavit of Successor, and Affidavit of Small Estate for Distribution of Decedent's Property. They're **all the same kind of form** and can be used for a small estate interchangeably.

Who can use the Small Estate process?

You must be a successor of the person who died. A successor is someone who is named in the deceased's Will or who is defined as a successor

(<https://app.leg.wa.gov/rcw/default.aspx?cite=11.04.015>) under Washington law if there's no Will.

Don't use the Small Estate Affidavit process if any of these are true:

- You think the claim will be challenged.
- You think the estate will go through probate.
- The estate will have debts that still need to be settled.
- You want to use it to claim real property, like a house or land.
- You want to use it to claim a mobile home. If a mobile home is involved, talk to a lawyer.

What kinds of property can I claim using the Small Estate process?

The Small Estate Affidavit form can only be used to claim a deceased person's **personal property**. You can't claim the deceased person's **real property**.

Personal property includes things like vehicles, boats, personal items, furniture, jewelry, collectibles, stocks, bonds, digital assets, digital devices, and electronics. It usually includes intangible personal property, like stock certificates.

You can claim any personal property in the decedent's estate. If the property is held by an institution, they might make you use their own form or submit an additional copy of one of their forms along with your Small Estate Affidavit form. This is true for vehicles registered with the DOL (<https://dol.wa.gov/forms/view/420041/download?inline>).

There might be other kinds of property that family members of a deceased person could claim, including unpaid wages (<https://app.leg.wa.gov/rcw/default.aspx?cite=49.48.120>) or credit union deposits up to \$1,000 (<https://app.leg.wa.gov/rcw/default.aspx?cite=11.62.030>). Talk to a lawyer if you think there might be other kinds of property of the decedent that you need to claim.

Real property is land or buildings that are attached to land, like a home. Real property and real estate **can't be** claimed using the Small Estate Affidavit process, even if the value is less than \$100,000. The equity that the decedent owned in real estate also counts towards the \$100,000 total, even if they didn't own the property entirely.

You also can't claim property that's to be inherited by 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 policies and some employee benefits.
- Property passing to a surviving spouse through state community property laws.

You also can't use this process to claim assets that you can't claim in probate, such as accounts with a direct beneficiary, like retirement accounts and life insurance policies.

How do I use the Small Estate Affidavit form to get the property?

It works the same as if you were a personal representative for the deceased person's estate. You can show it to the person, bank or place holding the deceased person's property. The property should be given to you.

Where do I get the Small Estate Affidavit form?

No matter which county the property is in, you can use the version of an [Affidavit of Successor form](#)

(<https://ofm.wa.gov/sites/default/files/public/legacy/resources/payroll/PRAffidavitofSuccessor>

from the Washington state Office of Financial Management (OFM). There are other versions of the form you can use too, but the one from the OFM is the most widely accepted.

Who do I notify?

You must notify anyone possibly entitled to any of the estate using the [Notice to Other Successors](#). This can be complicated. Try to [talk to a lawyer](#).

Other successors may want you to get the property through the Small Estate Affidavit process on their behalf. They must sign the [Authorization to Claim Property on Behalf of Another](#).

What if someone else claims the same property, or refuses to deliver it?

Try to [get legal help](#). If someone sends you notice that they're claiming property you think should be yours, send letters to that person and

whomever has the property. If you and the claiming party can't agree about ownership, you may have to go to court.

If the one holding the property won't give it up after you've followed the steps in this guide, you can go to court to get it.

The decedent had a bank account. What if the bank won't release the money?

If the account holds \$100,000 or less, you can claim it using the Small Estate Affidavit process **if you're the decedent's spouse or next-of-kin**. If this doesn't work, talk to a lawyer.

If the bank account holds \$2,500 or less, you can choose to use a different affidavit. You can get the funds from a bank account with \$2,500 or less if you're one of these:

- The surviving spouse
- Next of kin
- Funeral director
- A creditor who's entitled to payment

You must show proof of the account holder's death and provide an affidavit (<https://app.leg.wa.gov/rcw/default.aspx?cite=30A.22.190>) that states that "no personal representative has been appointed for the deceased account holder's estate."

How do I get the decedent's death certificate from the county health department?

A successor is someone entitled to a decedent's property. Whether you're a successor depends on if that person left a Will and your relationship to the decedent.

3. Requirements

For you to be able to use the Small Estate Affidavit process, all of these must be true:

- The deceased person was a Washington resident when they died.
- At least 40 days have passed since the death.
- The estate must be worth less than \$100,000 in probate assets.
- You must be a successor entitled to the property.
- No one has filed for the court to appoint a personal representative.
- All debts and funeral expenses have been paid.
- You gave advance notice to other successors.
- At least 10 days must have passed since you had that notice hand delivered or mailed.

Then you must mail a copy of the Small Estate Affidavit form along with the deceased's SSN to the Office of Financial Recovery (<https://www.dshs.wa.gov/ffa/office-financial-recovery>) (OFM) at P.O. Box 9501, Olympia, WA 98507-9501. **This final step is very important, don't forget to send a copy to OFM.**

4. Successors

How do I know if I'm entitled to the property?

A successor is someone entitled to a decedent's property. Whether you're a successor depends on if that person left a Will and your relationship to the decedent.

How are successor rights determined?

If the decedent left a Will, the Will generally directs who gets the property.

The instructions in a Will won't apply to:

- **Surviving spouses and domestic partners.** They're entitled to half the community property even if the Will doesn't name them. Property of spouses and domestic partners is community property, unless there's evidence that it is separate property.
- Any of the **decedent's children** whom the Will doesn't specifically exclude. They may have an interest in the property, even if the Will doesn't name them.

Talk to a lawyer who can tell you if you have a legal claim to the property. Learn more about what constitutes a registered domestic partnership.

If the decedent didn't leave a Will, Washington State's intestacy law (RCW 11.04.015) (<https://app.leg.wa.gov/RCW/default.aspx?cite=11.04.015>) will control how the property can be inherited and claimed. If the decedent died without a Will, then usually the property will be distributed in specific, strict ways.

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 or siblings is alive (or child of the decedent's sibling is alive).

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

There are also rules for property that won't go to the surviving spouse or domestic partner and for the property if there's no surviving spouse or domestic partner at all. **Property not going to a spouse or domestic partner** is distributed in this order:

- To the decedent's **children**, in equal shares. If a decedent's child has died, that child's children (the decedent's grandchildren) split the deceased child's share equally.
- If there are no surviving children of the decedent, then it goes to the surviving **parents of the decedent**.

- If there are no surviving children or parents of the decedent, then to surviving **siblings of the decedent** in equal shares. If a decedent's sibling has died, the decedent's sibling's children (decedent's nieces and nephews) split equally the decedent's sibling's share.
- If there are no surviving siblings of the decedent, then it goes to any surviving **grandparents of the decedent**. If it does distribute to grandparents, each side of the decedent's grandparents (both maternal and paternal) are entitled to 1/2 of the decedent's estate.
- If there are no surviving grandparents of the decedent, then to **aunts or uncles**. If an aunt or uncle has died, their children (decedent's cousins) split equally the aunt or uncle's share.
- If none of the above successors survive the deceased, then the estate will go to the **State of Washington**.

To be able to inherit if there's no Will, you can't be lower in priority than someone else who is a successor and is still alive. For example, the decedent's siblings aren't entitled to any property if **any** child, grandchild, or parent of the decedent is still alive.

People not on this list, such as friends, are only entitled to whatever the Will leaves them, if anything **and** if there was a Will. The only people who can inherit if there wasn't a Will are direct family members like spouses, children, parents, grandparents, aunts, uncles, nieces, nephews, and cousins of the decedent. Washington state can also take estates if there isn't a Will.

Even if you live together as partners, you don't qualify as domestic partners under the inheritance laws unless you registered your domestic partnership.

Are creditors successors?

Only if they're also successors

(<https://app.leg.wa.gov/rcw/default.aspx?cite=11.62.005>) by their own right, regardless of being owed a debt by the deceased. No matter whether the decedent left a Will or not, a decedent's property must **first** go to pay any of decedent's unpaid debts or obligations. This includes money that the Department of Social and Health Services (DSHS) paid out for decedent's medical care.

5. Step-by-step

1. **Take care of the decedent's debts.** You must do this before filing an affidavit for property. If you can't access the decedent's assets to pay the decedent's debts, you or another successor could pay the debts yourselves. Keep records and receipts of whatever you pay. You'd 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, talk to a lawyer. You might need to court to get permission to pay the debts out of the estate.

2. **Figure out the value of decedent's estate.** List and estimate the value of any personal property in the estate. It may add up to more than you thought. You can subtract from the property's value any unpaid bills, 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, like providing the Kelly Blue Book quote (<https://www.kbb.com/>) you used to estimate a vehicle's value

3. Be sure **40 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've applied or know if anyone else has. After talking to the other successors, send each a letter confirming they haven't started a probate. Keep a copy of these letters for your records.

5. **Get authorization and notify others, if needed.** Make sure you're the only person entitled to any of the property you're claiming, or you have written authorization to claim it on someone else's behalf.

If someone else is entitled to all or part of the property, use the Notice to Other Successors letter to tell them you're 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 10 days** after mailing or delivering the last of the letters before you sign the Small Estates Affidavit.

6. **Fill out** the blank Small Estates Affidavit Form (<https://ofm.wa.gov/sites/default/files/public/legacy/resources/payroll/PRAffidavitofSuccession.pdf>). You must sign this in front of a notary. **Wait to sign until the notary tells you to**. Make at least **2 copies**. Keep one for yourself.

7. **Mail** the other notarized copy via certified mail with return receipt requested to the Office of Financial Recovery (<https://www.dshs.wa.gov/ffa/office-financial-recovery>). Keep a copy of the return receipt when you get it back. Mail the other notarized copy along with the decedent's Social Security number to:

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

8. **Claim the property**. Deliver the Small Estate Affidavit form, a copy of decedent's death certificate (<https://doh.wa.gov/licenses-permits-and-certificates/vital-records/ordering-vital-record/death-record>), and a copy of RCW 11.62.010 (<https://app.leg.wa.gov/rcw/default.aspx?cite=11.62.010>) to whomever (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 a copy of the Small Estate Affidavit form to the person holding the title. They should return property or payment over to you. If permitted to do so, they should have a new certificate of ownership and/or license registration issued in your name.

6. Forms

State of Washington Affidavit of Successor

The [Affidavit of Successor form](#)

(<https://ofm.wa.gov/sites/default/files/public/legacy/resources/payroll/PRAffidavitofSuccessor> from the Washington state Office of Financial Management (OFM) is the most widely accepted.

The county where the property is or where the decedent lived might have a local version of the form you can use, like [Kitsap County](#)

(<https://www.kitsap.gov/clerk/Documents/Sm%20Estate%20Affidavit%20and%20Proced>, [Pierce County](#)

(<https://www.piercecountywa.gov/DocumentCenter/View/44133/Affidavit-for-Distribution-of-Decedents-Property?bidId=>) and [Whatcom County](#)

(<https://www.whatcomcounty.us/DocumentCenter/View/3401/Small-Estate-Settlement-by-Affidavit-PDF?bidId=>).

You may need these other forms, depending on your situation.

Form attached:

Authorization to Claim Property on Behalf of Another (NJP Planning 530)

Form attached:

Notice to Other Successors (NJP Planning 531)

Tips for the Authorization to Claim Property on Behalf of Another (NJP Planning 530)

If you're claiming property through the Small Estate Affidavit process on behalf of someone else, have them fill out and sign this form to give you permission.

Tips for the Notice to Other Successors (NJP Planning 531)

Use this form before you claim property through the Small Estate Affidavit process to notify anyone else who may be entitled to property from the decedent's estate

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Notice to Other Successors

Use this form before you claim property through the Small Estate Affidavit process to notify anyone else who may be entitled to property from the decedent's estate.

1. **My name is** _____.

I am a successor with the right to certain property from the estate of (*name of person who died*): _____.

2. **Property**

Under the state law for small estates (RCW 11.62.010), I am notifying you that I am claiming the following property (*describe*):

3. **Right to claim** (*check one or both*)

I believe I am entitled to this property because: _____

I am claiming this property for (*name/s*): _____
and will divide it when I get it. They are entitled to this property because:

4. **Affidavit**

I will be mailing an affidavit to claim this property **10 days** after I mail or deliver this letter to you.

Mailed or delivered on (*date*): _____



Person claiming property signs here

Claiming person's address

city

state

zip