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How to Complete Your Affidavit – Death of Spouse

Community Property with Right of Survivorship (Probate Code Section 210; Civil Code Section 682.1)

INSTRUCTIONS — KEEP FOR YOUR RECORDS. DO NOT ATTACH THIS PAGE TO YOUR AFFIDAVIT – DEATH OF SPOUSE.

About this form. When spouses (or registered domestic partners) hold property as **"community property with right of survivorship,"** the deceased spouse's share passes automatically to the surviving spouse without probate. Recording this sworn affidavit, with a certified death certificate attached, updates the public record. Check your deed first: if it says only "community property" (without right of survivorship), a different procedure applies — talk to an attorney.

1. **Check how title is held**
   Your recorded deed must say "community property with right of survivorship." If it says "joint tenants," use the Affidavit – Death of Joint Tenant instead.
2. **Order a certified death certificate**
   Get a certified copy (not a photocopy) from the county recorder or health department where the death occurred. It must be attached to the affidavit when you record it.
3. **Fill in the affidavit**
   Usually the surviving spouse signs. Copy the deed's type, date, names, recording details, and legal description exactly, and enter the decedent's name as it appears on both the death certificate and the deed.
4. **Sign under oath in front of a notary**
   This is a sworn statement, so the notary will place you under oath and complete a jurat. Do **not** sign ahead of time. Bring a current government-issued photo ID. We come to you.
5. **Record it with the County Recorder**
   Record the affidavit, with the certified death certificate attached, in the county where the property is located. Recording fees apply; mark the $75 fee box that fits your situation.
6. **Notify the County Assessor**
   File a **Change in Ownership Statement – Death of Real Property Owner** (form BOE-502-D) with the County Assessor within 150 days of the death. Transfers to a surviving spouse are generally not reassessed.

Good to Know

- The affidavit does not change ownership — the surviving spouse already owns the property by law. It makes the record match.
- Community property can bring income tax benefits for the surviving spouse when the property is later sold. A tax advisor can explain.
- The County Recorder mails the recorded original to the "When Recorded Mail To" address. Keep it with your important papers.

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SCAN TO BOOK

Questions about this document? Talk to an attorney. Gavrilov & Brooks Law Firm has attorneys licensed in California, Nevada, and other states. Phone and video consultations are available. **(916) 504-0529** · **www.gavrilovlaw.com**

This form is provided as a free convenience. First Choice Mobile Notary & Apostille is not a law firm, and a notary public who is not an attorney cannot give legal advice or help you decide what to write on this form. These instructions are general information only and are not legal advice. If you have questions about your situation, consult a licensed California attorney. © 2027 First Choice Mobile Notary & Apostille. All rights

Recording Requested By:

_____

When Recorded Mail This Document and Mail Tax Statements To:

Name: _____

Address: _____

City, State, ZIP: _____

Space Above This Line For Recorder's Use

AFFIDAVIT – DEATH OF SPOUSE

Community Property with Right of Survivorship (California Probate Code Section 210; Civil Code Section 682.1)

_____ Assessor's Parcel Number (APN)

_____ File / Order No. (if any)

DECLARATION OF EXEMPTION FROM GOV. CODE § 27388.1 FEE (Building Homes and Jobs Act)

☐ Exempt per GC § 27388.1(a)(2): recorded "in connection with" a transfer of a residential dwelling to an owner-occupier

☐ Exempt per GC § 27388.1(a)(1): fee cap of $225 reached

☐ Not exempt — fee to be paid at recording

State of California)

County of _____) ss.

_____
(name of person signing this affidavit — the affiant, usually the surviving spouse)
, of legal age, being first duly sworn, deposes and says:

That

_____
(name of decedent exactly as shown on the death certificate)
, the decedent mentioned in the attached certified copy of Certificate of Death, is the same person as

_____
(name of decedent exactly as shown on the deed)
named as one of the parties in that certain

_____ (type of document, e.g., Grant Deed) _____ (date of document)
executed by

_____
(name(s) of grantor(s) on that document)
to

_____
(names of the spouses as grantees on that document)

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as community property with right of survivorship, recorded as

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of Official Records of

(county where the deed was recorded)

County, California, covering the following described property situated in the

(city, or “unincorporated area”) (county)

State of California:

LEGAL DESCRIPTION

Copy exactly from the deed. If it does not fit, write “See Exhibit A attached” and attach it.

Commonly known as (street address of property)

SIGNATURE OF AFFIANT

Dated: _____

(signature of affiant) (printed name of affiant)

Sign only in front of the notary, who will place you under oath and complete the jurat on the next page.

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JURAT

Attach a certified copy of the Certificate of Death before recording.

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 _____)

Subscribed and sworn to (or affirmed) before me on this _____ day of _____ , 20 _____

by _____

(name(s) of signer(s))

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

(Seal)

Signature _____

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