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How to Complete Your Texas Small Estate Affidavit

Small Estate Affidavit (Texas Estates Code Chapter 205)

INSTRUCTIONS — KEEP FOR YOUR RECORDS. DO NOT ATTACH THIS PAGE TO YOUR DOCUMENT.

About this form. A small estate affidavit lets the heirs of a Texas resident who died **without a will** collect a modest estate without a full probate administration, after the probate judge approves the affidavit.

1. **Check that you qualify**
   The decedent died **without a will**; at least **30 days** have passed since death; no probate has been filed; and the estate, not counting the homestead and exempt property, is worth **$75,000 or less**.
2. **List family history, assets, and debts (Pages 1–3)**
   Every known asset with its value, every known debt, and the name and address of every heir must be listed. Attach extra pages if needed.
3. **Who must sign**
   Each heir who has legal capacity, plus **two disinterested witnesses** who know the family and inherit nothing. A parent or guardian signs for a minor or incapacitated heir.
4. **Swear before a notary, then file with the court**
   Everyone signs under oath before a notary. The affidavit is then filed with the county clerk and must be **approved by the judge** before it can be used. We can bring a notary for the whole family to one appointment.

After It's Signed

- After the judge approves it, get certified copies from the clerk and give them to banks and others holding the decedent's property.
- Real property: only the decedent's homestead may pass by small estate affidavit, and only to the persons Texas law allows. A certified copy is recorded in the county where the homestead is located.
- Some courts have their own required small estate form or checklist. Check with the probate clerk in the decedent's county before filing.

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Have questions about this document? To consult with an attorney, contact **Gavrilov & Brooks Law Firm** at **(916) 504-0529** or **www.gavrilovlaw.com**. Main headquarters: 2315 Capitol Avenue, Sacramento, CA 95816.

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SMALL ESTATE AFFIDAVIT

(Texas Estates Code Chapter 205)

In the (name of court) | County, Texas | Cause No.

Estate of (name of decedent), Deceased | Date of death

On the dates written below, the distributees of this estate and two disinterested witnesses personally appeared before the undersigned notary and, being duly sworn, each stated:

1. The decedent died on the date stated above, intestate (without a will), and at least 30 days have elapsed since the date of death.
2. No petition for the appointment of a personal representative of the decedent's estate is pending or has been granted.
3. The value of the estate assets on the date of this affidavit, excluding homestead and exempt property, does not exceed $75,000, and the value of the entire estate assets, not including homestead and exempt property, exceeds the known liabilities of the estate.
4. At the time of death, the decedent's domicile (residence) was:

Address, city, county, state

FAMILY HISTORY (marriages, divorces, children born to or adopted by the decedent, deceased children and their descendants, and, if no descendants, parents and siblings):

Initials: _____

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SCHEDULE OF ASSETS (all known assets; state whether each is homestead, exempt, or nonexempt, and its value):

SCHEDULE OF LIABILITIES (all known debts, including funeral expenses and last illness):

DISTRIBUTEES (name, address, relationship to decedent, and share of each heir):

Initials: _____

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The facts stated in this affidavit are true and correct to the best of our knowledge.

DISTRIBUTEES (each heir with legal capacity; a parent or guardian signs for a minor or incapacitated heir)

X
Distributee

Printed name

X
Distributee

Printed name

X
Distributee

Printed name

X
Distributee

Printed name

X
Distributee

Printed name

X
Distributee

Printed name

DISINTERESTED WITNESSES (I am not entitled to any part of the estate and have personal knowledge of the family history)

X
Witness

Printed name

X
Witness

Printed name

JURAT

STATE OF TEXAS §

COUNTY OF §

Sworn to and subscribed before me on

Date

by (names of all distributees and witnesses signing above)

X
Notary Public, State of Texas

Notary's printed name

Notary ID number

My commission expires

(Notary seal)

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ORDER APPROVING SMALL ESTATE AFFIDAVIT (for the court's use)

On this day the Court considered the foregoing Small Estate Affidavit and finds that it complies with the terms and provisions of Chapter 205 of the Texas Estates Code, that the Court has jurisdiction and venue, and that the affidavit should be approved. It is therefore ORDERED that the Small Estate Affidavit is APPROVED and shall be recorded in the Small Estates Records of this County, and the Clerk shall issue certified copies to all persons entitled to them.

Signed on (date)

X

Judge Presiding

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