**Small Estate Affidavit Next steps**

**Note: These instructions are not part of the Small Estate Affidavit.**

1. Sign and copy the Small Estate Affidavit form

* Make at least two copies of the completed affidavit. Attach a copy of the death certificate. Also attach a certified copy of the will that was filed if there is one.
* Sign and notarize the affidavit. You must sign this document in front of a Notary Public. Remember that by signing the affidavit you promise to pay the decedent’s debts before giving any money to anyone else.

2. Use the small estate affidavit

* You can show the affidavit to any person, bank or corporation that has property of the estate. The bank, person, or corporation must give away the property the way the affidavit says. Once the property is transferred, the person who gave you the property cannot be sued.
* The person or corporation that has the decedent’s property must turn over the property after you give them the small estate affidavit. If they don’t, you can file a civil court claim to get the property.

{%p if sos\_warning %}

* The Illinois Secretary of State’s office may require that you use their own small estate affidavit form for some vehicle transfers. You may need to copy the information from this form onto their form.

{%p endif %}

Learn more about transferring property with a small estate affidavit at <https://www.illinoislegalaid.org/legal-information/transferring-property-small-estate-affidavit>.

**Small Estate Affidavit**

I, {{ users.name.full() }}, on oath state:

1. (a) My residence address is: {{users.address.line\_one(bare=True)}}; {{ users.address.line\_two() }}

{%p if users.mailing\_address == True %}

(b) My mailing address is:{{ users.mailing\_address.on\_one\_line(bare=True)}}; and

{%p endif %}

(c) I understand that, if I am an out of state resident, I submit myself to the jurisdiction of Illinois courts for all matters related to the preparation and use of this affidavit. My agent for service of process in Illinois is:

|  |  |
| --- | --- |
| NAME: | {% if agent\_check == “yes” %}{{agent.name.full(middle=’full’)}}{% endif %} |
| ADDRESS: | {% if agent\_check == “yes” %}{{agent.address.on\_one\_line(bare=True)}}{% endif %} |
| CITY: | {% if agent\_check == “yes” %}{{agent.address.city}}{% endif %} |
| TELEPHONE (IF ANY): | {% if agent\_check == “yes” %}{{agent.phone\_numbers()}}{% endif %} |

I understand that if no person is named above as my agent for service or, if for any reason, service on the named person cannot be effectuated, the clerk of the circuit court of {% if decedent\_property.county.lower() == “cook”%}Cook County,{% else %}{{ decedent\_property.county}}County, {{ judicial\_circuit }} Judicial Circuit,{% endif %} Illinois is recognized by Illinois law as my agent for service of process.

1. The decedent's name is {{ decedent.name\_full() }},
2. The date of the decedent's death was {{decedent\_death\_date}}, and I have attached a copy of the death certificate hereto.
3. The decedent's place of residence immediately before the decedent’s death was {{ decedent\_property.on\_one\_line(bare=True)}};
4. No letters of office are now outstanding on the decedent's estate and no petition for letters is contemplated or pending in Illinois or in any other jurisdiction, to my knowledge;
5. The gross value of the decedent's entire personal estate, including the value of all property passing to any party either by intestacy or under a will, does not exceed $100,000. (Here, list each asset, e.g., cash, stock, and its fair market value.);

|  |  |  |
| --- | --- | --- |
| **Asset** | **Description** | **Value** |
| {%tr for asset in decedent\_assets %} |  |  |
| {{asset.name}} | {{asset.description}} | {{currency(asset.value)}} |
| {%tr endfor %} |  |  |

{%p if funeral\_expenses and unclaimed\_property %}

Funds and/or assets held with the Illinois Treasurer’s Office

{%p endif %}

{%p if funeral\_other\_debts == True %}

1. All of the decedent's funeral expenses and other debts have been paid.

{%p else %}

1. The decedent has the following unpaid expenses and debts:

**Class 1 –Funeral and Burial Expenses**

{%p if unpaid\_funeral\_expense | length == 0 %}

None

{%p else %}

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Creditor name** | | **Address** | | **Amount owed** |
| {%tr for expense in unpaid\_funeral\_expense %} | |  | |  |
| {{ expense.name }} | | {{expense.address.on\_one\_line(bare=True)}} | | {{ currency (expense.value) }} |
| {%tr endfor %} |  | |  | |

{%p endif %}

**Class 2 – Surviving Spouse's or Decedent child/ren's Award**

{%p if (heirs | length == 0) and surviving\_spouse %}

None

{%p else %}

|  |  |  |
| --- | --- | --- |
| **Name** | **Address** | **Amount owed** |
| {%tr if surviving\_spouse %} |  |  |
| {{ spouse.name }}, {{ spouse.relationship }} | {{ spouse.address.on\_one\_line(bare=True)}} | {{ currency (spouse.award) }} |
| {%tr endif %} |  |  |
| {%tr for child in heirs %} |  |  |
| {{ child.name }}, {{ child.relationship }} | {{ child.address.on\_one\_line(bare=True)}} | {{ currency (child.award) }} |
| {%tr endfor %} |  |  |

{%p endif %}

**Class 3 – Debts Due the United States**

{%p if us\_debts | length == 0 %}

None

{%p else %}

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Agency or Department** | | **Address** | | **Amount owed** |
| {%tr for debt in us\_debts %} | |  | |  |
| {{debt.name}} | | {{debt.address.on\_one\_line(bare=True)}} | | {{ currency (debt.value)}} |
| {%tr endfor %} |  | |  | |

{%p endif %}

**Class 4 – Money Due Employees**

{%p if employees | length == 0 %}

None

{%p else %}

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Employee Name** | | **Address** | | **Amount owed** |
| {%tr for employee in employees %} | |  | |  |
| {{employee.name}} | | {{employee.address.on\_one\_line(bare=True)}} | | {{ currency (employee.value)}} |
| {%tr endfor %} |  | |  | |

{%p endif %}

**Class 5 – Money or Property Held in Trust**

{%p if trust\_property | length == 0%}

None

{%p else %}

|  |  |  |  |
| --- | --- | --- | --- |
| **Property Description** |  | | **Value** |
| {%tr for property in trust\_property %} |  | |  |
| {{ property.name }} | | | {{currency(property.value)}} |
| {%tr endfor %} | |  | |

{%p endif %}

**Class 6 – Debts Due State of Illinois and Others**

{%p if illinois\_debts | length == 0%}

None

{%p else %}

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Agency or Department** | | **Address** | | **Amount owed** |
| {%tr for debt in illinois\_debts %} | | | | |
| {{debt.name}} | | {{debt.address.on\_one\_line(bare=True)}} | | {{ currency (debt.value)}} |
| {%tr endfor %} |  | |  | |

{%p endif %}

**Class 7 – All Other Claims**

{%p if other\_claims | length == 0%}

None

{%p else %}

|  |  |  |  |
| --- | --- | --- | --- |
| **Name** | **Address** | **Description** | **Amount owed** |
| {%tr for claim in other\_claims %} | | | |
| {{claim.name}} | {{claim.address.on\_one\_line(bare=True)}} | {{claim.description}} | {{ currency (claim.value)}} |
| {%tr endfor %} | | | |

{%p endif %}

{%p endif %}

|  |  |
| --- | --- |
| 7.5 | I understand that all valid claims against the decedent's estate described in paragraph 7 must be paid by me from the decedent's estate before any distribution is made to any heir or legatee. I further understand that the decedent's estate should pay all claims in the order set forth above, and if the decedent's estate is insufficient to pay the claims in any one class, the claims in that class shall be paid pro rata. |

1. There is no known unpaid claimant or contested claim against the decedent, except as stated in paragraph 7.
2. (a) The names and places of residence of any surviving spouse, minor children and adult dependent\* children of the decedent are as follows:

{%p if (heirs | length > 0) or surviving\_spouse %}

|  |  |  |
| --- | --- | --- |
| **Name and Relationship** | **Place of Residence** | **Age of**  **Minor or adult dependent child** |
| {%tr if surviving\_spouse %} |  |  |
| {{ spouse.name }}, {{spouse.relationship}} | {{spouse.address.on\_one\_line(bare=True)}} |  |
| {%tr endif %} |  |  |
| {%tr for relative in heirs %} |  |  |
| {{ relative.name }}, {{relative.relationship}} | {{relative.address.on\_one\_line(bare=True)}} | {{relative.age\_in\_years()}} |
| {%tr endfor %} |  |  |

{%p else %}

Not applicable

{%p endif %}

\*(Note: An adult dependent child is one who is unable to maintain himself and is likely to become a public charge.)

(b) The award allowable to the surviving spouse of a decedent who was an Illinois resident is: {% if surviving\_spouse and heirs | length == 0 %}${% endif %}{{spouse\_award}}

({{currency(spouse\_limit)}}, plus {{currency(child\_limit)}} multiplied by the number of minor children and adult dependent children who resided with the surviving spouse at the time of the decedent's death. If any such child did not reside with the surviving spouse at the time of the decedent's death, so indicate).

{%p if surviving\_spouse and heirs | length > 1 %}

{%p if non\_reside\_children | length > 0%}

At the time of the decedent's death, the following minor or adult dependent children of the decedent did not reside with the surviving spouse: {% for child in non\_reside\_children %}{{child.name}} {% endfor %}.

{%p endif %}

{%p endif %}

(c) If there is no surviving spouse, the award allowable to the minor children and adult dependent children of a decedent who was an Illinois resident is: {{child\_only\_award}}

({{currency(spouse\_limit)}}, plus {{currency(child\_limit)}} multiplied by the number of minor children and adult dependent children), to be divided among them in equal shares.

{%p if decedent\_will == True %}

1. The decedent left a will, which has been filed with the clerk of an appropriate court. A certified copy of the will on file is attached. To the best of my knowledge and belief the will on file is the decedent's last will and was signed by the decedent and the attesting witnesses as required by law and would be admittable to probate. The names and places of residence of the legatees and the portion of the estate, if any, to which each legatee is entitled are as follows:

{%p else %}

1. The decedent left no will. The names, places of residence and relationships of the decedent's heirs, and the portion of the estate to which each heir is entitled under the law where decedent died intestate are as follows:

{%p endif %}

|  |  |  |  |
| --- | --- | --- | --- |
| **Name and Relationship** | **Place of Residence** | **Age of**  **minor**  **child** | **Portion of**  **Estate** |
| {%tr if all\_recipients | length > 0%} | |  |  |
| {%tr for x in all\_recipients %} | |  |  |
| {{x.name}}, {{x.relationship}} | {{x.address.on\_one\_line(bare=True)}} | {% if x.child\_minor %}{{ x.age\_in\_years() }} {% endif %} | {{ currency(x.award) }} |
| {%tr endfor %} |  |  |  |
| {%tr endif %} |  |  |  |

(c) Affiant is unaware of any dispute or potential conflict as to the heirship or will of the decedent.

|  |
| --- |
| 10.3 My relationship to the decedent or the decedent's estate is as follows: {{users.relationship}}. |

**10.5 I understand that the decedent's estate must be distributed first to satisfy claims against the decedent's estate as set forth in paragraph 7.5 of this affidavit before any distribution is made to any heir or legatee. By signing this affidavit, I agree to indemnify and hold harmless all creditors of the decedent's estate, the decedent's heirs and legatees, and other persons, corporations, or financial institutions relying upon this affidavit who incur any loss because of reliance on this affidavit, up to the amount lost because of any act or omission by me. I further understand that any person, corporation, or financial institution recovering under this indemnification provision shall be entitled to reasonable attorney's fees and the expenses of recovery.**

1. The property described in paragraph 6 of this affidavit should be distributed as follows:

|  |  |  |
| --- | --- | --- |
| **Name** | **Description of property**  **to be distributed** | **Value of property or specific sum** |
| {%tr if all\_recipients | length > 0 %} | |  |
| {%tr for recipient in all\_recipients %} | |  |
| {{recipient.name}} | {{recipient.description}} | {{currency(recipient.award)}} |
| {%tr endfor %} |  |  |
| {%tr endif %} |  |  |

**The foregoing statement is made under the penalties of perjury\*.**

|  |  |
| --- | --- |
|  |  |
| Signature of Affiant |  |

{{users.name.full(middle=’full’)}}

|  |  |
| --- | --- |
| Signed and sworn before me on |  |
|  | Date |

|  |  |
| --- | --- |
|  |  |
|  | Notary Public |

**\*(Note: A fraudulent statement made under the penalties of perjury is perjury, as defined in Section 32-2 of the Criminal Code of 2012.)**