

A SMALL ESTATE AFFIDAVIT

WV CODE § 44-1A-1

Overview of the process:

Our office reviews the Small Estate Affidavit and will contact the Authorized Successor if any additional information is required.

A Certificate of Authorization is issued to the Authorized Successor which lists the specific assets set forth on the Small Estate Affidavit, including both **personal property** (i.e., checks made payable to the decedent's estate, automobiles, bank accounts, etc.) and **real property** (i.e., home, land, oil, and gas rights, etc.). The Certificate is good for 6 months from the date of issue. A copy of the Small Estate Affidavit is mailed by the County Clerk's Office to each beneficiary (if there's a Will) or heir of the decedent with a letter explaining their right to object within 30 days to the information on the Affidavit. If an objection is filed, the Small Estate Affidavit may be revoked, and a full probate and administration of the decedent's estate may be required. If no objections are received, the process is complete, and no further interaction is necessary with the County Clerk's Office.

What does the Authorized Successor do with the Certificate of Authorization?

The Authorized Successor can use the Certificate of Authorization and the death certificate to complete the necessary business transfers of the decedent's estate assets. The Certificate of Authorization can be presented to banks, the Department of Motor Vehicles or any agency which holds the personal property asset as listed on the Small Estate Affidavit. Banks operate under their own internal policies and procedures and will provide guidance directly to the Authorized Successor.

As the Authorized Successor, you have agreed to administer the small assets of the decedent according to the law and pay or deliver the small assets to the decedent's beneficiaries or heirs, after paying any known or ascertainable creditors of the decedent. The Authorized Successor is liable to the beneficiaries/heirs of the decedent for any breach of fiduciary duty in failing to pay, deliver or administer the small assets for a period of three years after the date of issuance of the Certificate.

If you have general questions about the Small Estate Affidavit and your duties as an Authorized Successor, please contact: Chris Winton (WV Bar Association Probate Committee) at (304) 342-1141, or via email at chriswinton@rwk-law.com.

For specific legal guidance regarding the decedent's estate, you will need to contact an attorney.
