

Affidavit for Collection of Personal Property (Small Estate Affidavit)

Procedures in this guide apply only to personal property valued under \$166,250/\$184,500

This guide only applies to personal property (money and moveable property like jewelry, vehicles, tools, etc.) For Real Property valued under \$166,250 (4/1/2022) or or \$184,500 (4/2/2022), you cannot use this form, but there may be alternatives to formal probate, such as a Petition for Succession to Real Property.

Read *How to Probate an Estate in California*, Chapter 8, for more information.

In certain circumstances, personal property may be transferred to the decedent's successors without a formal probate. If the decedent's estate qualifies under [California Pro. Code §§ 13100-13116](#) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13100), the person(s) entitled to the property may present a *Small Estate Affidavit*, commonly known as an *Affidavit for Collection of Personal Property*, to the person or institution having custody of the property, requesting that the property be delivered or transferred to the successor.

Personal property refers to anything that isn't real estate. Common types of personal property include furniture, jewelry, and household goods, as well as bank accounts, stocks, and money due to the decedent.

Step-by-Step Instructions

1. Determine If This Is the Appropriate Procedure

Personal property may be collected using the Affidavit for Collection of Personal Property if:

- At least 40 days have elapsed since the death of the decedent
- No administrative proceedings are pending or have been conducted for the decedent's estate
- Estate does not exceed \$166,250 in value (if death occurred before April 1, 2022) or \$184,500 (if death occurred on or after April 1, 2022). Many types of property are excluded when calculating the value of the estate (see [Pro. Code § 13050](#) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13050) for exclusions).

2. Complete the Affidavit

Instructions for completing the *Affidavit for Collection of Personal Property* are included at the end of this guide.

[Form – Affidavit for Collection of Personal Property](#) (<https://www.saclaw.org/wp-content/uploads/2023/04/form-affidavit-for-collection-of-personal-property.pdf>)

Although [Pro. Code § 13101](#) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13101) states

that a declaration under penalty of perjury is sufficient, many institutions require a notarized affidavit, especially when securities are involved. Contact the institution to determine if notarization is necessary.

If there are several assets to be transferred, they may all be included on one affidavit, or a separate affidavit may be used for each. If more than one person is entitled to inherit a particular asset, all beneficiaries must sign a single affidavit.

The *Affidavit for Collection of Personal Property* must be accompanied by:

- [DE 300 Maximum Values for Small Estate Set-Aside & Disposition of Estate Without Administration](https://www.courts.ca.gov/documents/de300.pdf) (<https://www.courts.ca.gov/documents/de300.pdf>)
- A certified copy of the death certificate
- Evidence that the decedent owned the property (e.g., stock certificate, bank passbook, storage receipt)
- Reasonable proof of the identity of the person(s) signing the affidavit (e.g., driver's license, passport)
- An Inventory and Appraisal of all real property owned by the decedent in California, if any. This appraisal must be performed by an approved probate referee. [Pro. Code § 13103](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=13103.&lawCode=PROB) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=13103.&lawCode=PROB)

The court can provide you a list of approved referees. For more information about the Inventory and Appraisal, see *How to Probate an Estate in California* (KFC 205 .N57).

If stocks or bonds are being transferred, you will also need to attach:

- An *Affidavit of Domicile* signed by the person(s) entitled to the securities
- A *Transmittal Letter* signed by the person(s) entitled to the securities
- A *Stock or Bond Power*, signed by the person(s) entitled to the securities

More Information:

Samples of these additional attachments are available in *How to Probate an Estate in California* from [Nolo Press](https://web.p.ebscohost.com/lirc/publication) (<https://web.p.ebscohost.com/lirc/publication>), Chapter 11.

3. Collect the Decedent's Property

Present the completed Affidavit and required attachments to the person or institution having custody of the property.

When the Bank Insists on the “Letters” To Transfer Property

Adapted, with the kind permission of author Richard Wills, from “Washington State Probate,” at his [Washington State Probate website](http://www.wa-probate.com/). (<http://www.wa-probate.com/>)

Probably the most popular use of a “Small Estate Affidavit,” also called “Affidavit for Collection of Personal Property,” is to access a Decedent’s bank or securities account. The practical (as opposed to legal) problem is that banks, brokerages, transfer agents, and institutions in general are used to transferring such accounts through a probate proceeding, in which the Personal Representative delivers a copy of his/her Letters to the institution and requests the transfer. That’s the method that institutions are familiar with, and they have come to see it as “the proper (and only) procedure” for making the transfer. Consequently, far too often, when a

Successor presents a Small Estate Affidavit to an institution, the institution responds “We need Letters to make the transfer.”

How to respond? In a word, be persistent and play “broken record” (repeat items 2 through 7 below over and over to the agent):

1. To prepare for the transfer, download and print out a copy of the relevant statutes: [Pro. Code § 13100-13116](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13100) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13100).
2. Include the copies in your written request or hand the copies to the agent and politely ask the agent to read them, especially [Pro. Code § 13100](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13100) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13100).
3. If you are dealing with a securities transfer agent, politely ask the agent to read [Pro. Code §§ 13100\(c\)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13100) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13100) and [13105\(a\)\(2\)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13105) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13105).
4. Politely inform the agent that your use of a Small Estate Affidavit complies with California law, and that California law does not require either a probate proceeding or the delivery of Letters for the transfer to be made.
5. If further resistance is met, politely inform the agent that if the institution refuses to make the transfer, California law allows you to bring an action in Court against the institution to compel the transfer and for it to reimburse you for your attorney’s fees and costs to obtain a Court Order to Compel the Transfer. [Pro. Code §13105\(b\)](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13105) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PROB§ionNum=13105).
6. If further resistance is met, ask to speak to their manager.
7. If further resistance is met, ask to speak to their legal department.

Be forewarned, so that you may properly prepare. In your author’s experience, the grand champions of resistance to Small Estate Affidavits are downtown branches of large banks (e.g., Bank of America, US Bank, etc.), and East Coast (particularly New York) securities transfer agents.

For More Information

On the Web

California Courts Self-Help Website: “[Simplified Procedures to Transfer An Estate](http://www.courts.ca.gov/10440.htm) (<http://www.courts.ca.gov/10440.htm>)”

At the Law Library

How to Probate an Estate in California KFC 205 .N57 (Self Help)

Electronic Access: From any computer (Library or home) via the [Legal Information Reference Center](https://www.saclaw.org/services/borrowing-from-the-library/download-e-books/). (<https://www.saclaw.org/services/borrowing-from-the-library/download-e-books/>)

Sample Affidavit

Affidavit for Collection of Personal Property
California Probate Code Section 13100

The undersigned state(s) as follows:

- David Fielding** died on **May 10, 2024**, in the County of **Sacramento**, State of California.
- At least 40 days have elapsed since **1** **David Fielding** death certificate attached to this affidavit. **1** Insert the name of the deceased person and the date and county of death.
- No proceeding is now being or has been conducted in California for administration of the decedent's estate. **3** Check "no" if no one will be filing a probate case in court. If there is already a court case, ask the executor or administrator for a letter of consent, and attach it.
- The decedent's personal representative has consented in writing to the payment, transfer, or delivery to the affiant or declarant of the property described in the affidavit or declaration.
- The current gross fair market value of the decedent's real and personal property in California, excluding the amount described in Section 13056 of the California Probate Code, does not exceed **\$184,500**, the adjusted decedent's death. A list of adjusted dollar amounts, published in [code] Section 890, is attached to this affidavit. **4** Fill in the amount listed on page 3 for the time period when the deceased person died.
- An inventory and appraisal of the real and personal property of the decedent is attached to this affidavit. **5** If the deceased person owned real estate, check the first box and attach an Inventory and Appraisal (DE-160).
 There is no real property in the estate. If all real estate was transferred without probate (joint tenant, community property, trust), check the second box.
- The following property to be transferred, delivered, or paid to the affiant under the provisions of California Probate Code section 13100:
Contents of Golden One Savings Account Number 12-345678
6 Describe the property you wish to collect, with identifying details such as account numbers.
- The successor(s) of the decedent, as defined in Probate Code Section 13006 is/are:
John Fielding **7** Insert the name(s) of the person(s) entitled to the property (the legal heirs).
- The affiant or declarant is the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property. **8** Check the first box if the person(s) named in item 7 will sign the affidavit.
 The affiant or declarant is authorized under Section 13056 of the California Probate Code to sign the affidavit on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property. Check the second box if a guardian, conservator or custodian will sign the affidavit on their behalf.
- No other person has a superior right to the interest of the decedent in the described property.
- The affiant or declarant requests that the described property be paid, delivered, or transferred to the affiant or declarant.

The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: Date of Signature

Signed: **Date and sign in Front of Notary**

John Fielding **Type or write your name.**

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NOTICE TO HOLDER OF DECEDENT'S PROPERTY

When properly filled out, this form meets California requirements under Probate Code 13100-13117.

- You are **required** to transfer the described property to the affiant/declarant. You must pay the claimant's attorney fees if a lawsuit is necessary because you refuse. Cal. Prob. C. 13105.
- You are **discharged from all liability** for the money or property when you transfer it based on good faith reliance on this affidavit. Cal. Prob. C. 13106.
- When you rely in good faith on the affidavit, you have **no duty to inquire** into the truth of the statements in it. Cal. Prob. C. 13106.

Affidavit for Collection of Personal Property (Small Estate Affidavit) (page 1)



ACKNOWLEDGMENT

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

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

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Affidavit for Collection of Personal Property (Small Estate Affidavit) (page 2)

DE-300

**MAXIMUM VALUES FOR SMALL ESTATE SET-ASIDE
& DISPOSITION OF ESTATE WITHOUT ADMINISTRATION**

This form lists the maximum dollar values of a decedent's estate or specific property in that estate, as of the date of the decedent's death, for purposes of determining eligibility for

(1) an order setting the estate aside for the decedent's surviving spouse and minor children; or

(2) disposition of the estate.

NOTE: The values listed in this form apply to property that is not exempt from creditors' claims.

The amount of the value of the property is based on the Consumer Price Index for All Urban Consumers for the three-year period ending December 31, 2021, with each adjusted value rounded to the nearest \$25. (See Prob. Code, § 890(b).) Unless otherwise provided by statute after April 1, 2022, these values will next be adjusted April 1, 2025.

If decedent died on or before April 1, 2022, DE 300 needs to be attached to the Affidavit for Collection of Personal Property.

Probate Code Section	Description	Amount (for death before Apr. 1, 2022)	Amount (for death on or after Apr. 1, 2022)
1. SMALL ESTATE SET-ASIDE UNDER PROBATE CODE SECTIONS 6600-6613			
§§ 6602, 6609	As of the date of the decedent's death, the net value of the decedent's estate, excluding all liens and encumbrances at the date of death and the value of any probate homestead set apart under Probate Code section 6520, must not exceed:	\$ 85,900	\$ 95,325
2. DISPOSITION OF ESTATE WITHOUT ADMINISTRATION UNDER SECTIONS 13000-13606			
a. PROPERTY EXCLUDED FROM DETERMINING VALUE OF ESTATE			
§ 13050(c)	The amount of any salary or other compensation owed to the decedent, not to exceed:	\$ 16,625	\$ 18,450
b. AFFIDAVIT FOR COLLECTION, RECEIPT, OR TRANSFER OF PERSONAL PROPERTY			
§§ 13100, 13101	The gross value of the decedent's real and personal property in California, excluding the property described in Probate Code section 13050, must not exceed:	\$ 166,250	\$ 184,500
c. PETITION & COURT ORDER DETERMINING SUCCESSION TO PROPERTY			
§§ 13151, 13152, 13154	The gross value of the decedent's real and personal property in California, excluding the property described in Probate Code section 13050, must not exceed:	\$ 166,250	\$ 184,500
d. AFFIDAVIT FOR SUCCESSION TO REAL PROPERTY OF SMALL VALUE			
§ 13200	The gross value of all real property in the decedent's estate located in California, excluding the real property described in Probate Code section 13050, must not exceed:	\$ 55,425	\$ 61,500
e. AFFIDAVIT FOR COLLECTION OF COMPENSATION OWED TO DECEASED SPOUSE			
§§ 13600, 13601	Net salary or other compensation owed, in aggregate, by one or more employers for personal services of the deceased spouse, must not exceed: <i>(This limit does not apply if the decedent was a firefighter or peace officer described in Government Code section 22020(a).)</i>	\$ 16,625	\$ 18,450

NOTICE

If the decedent died on or after April 1, 2022, this form must be attached to

- an affidavit or declaration furnished under Probate Code section 13101;
- a *Petition to Determine Succession to Real Property* (form DE-310) filed under Probate Code section 13151;
- an *Affidavit re: Real Property of Small Value* (form DE-305) filed under Probate Code section 13200; or
- an affidavit or declaration furnished under Probate Code section 13601.

Form Adopted for Mandatory Use
Judicial Council of California
DE-300 [New April 1, 2022]

**MAXIMUM VALUES FOR SMALL ESTATE SET-ASIDE
& DISPOSITION OF ESTATE WITHOUT ADMINISTRATION**

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Probate Code, §§ 890, 6602, 6609, 13050,
13100-13101, 13151-13154,
13200, 13600-13601
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