California Small Estate Affidavit

Instructions | Affidavit for Collection of Personal Property (Probate Code §§ 13100 to 13116)

This form is not legal advice. It is general information and a sample form. Using it does not create an attorney-client relationship with the Law Office of Ravi Patel. Every estate is different. Consult an attorney or other qualified legal professional before you take any action to administer an estate. A bank or other holder may ask for its own form or for more documents.

1. Check that you can use this affidavit

- At least **40 days** have passed since the death.
- No probate case is open in California. (If one is, the personal representative must consent in writing, and you attach the consent and the letters.)
- The decedent's property in California is worth no more than the limit on the attached Form DE-300 for the date of death: **$208,850 for a death on or after April 1, 2025** ($184,500 for a death from April 1, 2022, to March 31, 2025). Use the gross value on the date of death, without subtracting loans. Count California real estate toward the limit, even though this affidavit cannot transfer it. Count only the decedent's half of community property.
- You are the **successor**: the person who receives the property under the will, or the heirs under California law if there is no will. If a pour-over will leaves everything to a living trust, the trustee signs for the trust.

2. Leave out property that passes on its own (Probate Code § 13050)

- Joint tenancy property; property in a living trust; accounts with a payable-on-death or transfer-on-death beneficiary.
- Life insurance, annuities and retirement accounts with a living named beneficiary (they count only if payable to the estate).
- Vehicles, boats and mobilehomes registered with the DMV or HCD (they have their own forms); property passing to a surviving spouse or registered domestic partner; military pay; and unpaid wages up to $20,875 (death on or after April 1, 2025).

3. Get every signature you need

- **Everyone who succeeds to the property signs.** With a pour-over will, that is usually only the trustee. With no will and several heirs, every heir signs and each receives an equal share (or the share California law gives them).
- There is room for four signers. If more must sign, add a page. Each signer needs a notary acknowledgment.
- Sign in front of a notary. The notary's certificate of acknowledgment is accepted proof of identity (§ 13104(e)), and most banks expect it.

4. Describe each asset so no one can mistake it

- Name the bank, brokerage or company, the type of asset, and the **last four digits** of the account or another identifying number. For stock, give the company, the number of shares and the certificate number or brokerage account. For a refund or check, give the payer, the amount and the check number.
- Be precise. This affidavit is your record of what you collected and why you had the right to it, if anyone ever disputes ownership.
- Use **one affidavit for each bank or holder**, and ask the holder first whether it has its own form.

5. Attach these documents

- A **certified copy of the death certificate** (not one stamped “Informational”). Required by § 13101(d).
- **Form DE-300** (attached as the last page). Required for deaths on or after April 1, 2022 (§ 13101(f)).
- Evidence of ownership the decedent had, such as a statement, certificate or policy (§ 13102). Without it, the holder may ask for a bond or an indemnity agreement.
- If the estate includes any California real estate, an inventory and appraisal by a probate referee (§ 13103).
- If you sign as trustee for a trust: a copy of the will and a certification of trust.

6. After you collect

- You may be personally responsible for the decedent’s unpaid debts, up to the value of what you received (§§ 13109 to 13112). If the debts are large, probate may be the better choice.
- A false statement in this affidavit can make you liable for much more than the property’s value. Sign only what you know is true.
- If a holder refuses without good reason, you can sue to recover the property, and the court must award attorney’s fees if the refusal was unreasonable (§ 13105(b)).
- Keep a copy of everything you signed and everything you received.

7. What this affidavit cannot do

- It cannot transfer a house or other real estate. Depending on the facts, the options are an Affidavit re Real Property of Small Value (Form DE-305, for real property worth $69,625 or less, after six months), a Petition to Determine Succession to Primary Residence (Form DE-310, for a home worth $750,000 or less), a Heggstad petition if a living trust names the property, or a probate.

Learn more and watch the walkthrough video:
ravilaw.com/ravi-law-blog/small-estate-affidavit-california

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SMALL ESTATE AFFIDAVIT

Affidavit for Collection of Personal Property
California Probate Code Sections 13100 to 13116

To (name of bank, company, or other holder of the property):

_____

The undersigned, called the affiant or declarant in this affidavit, state as follows:

1. The decedent's name: _____

2. The date and place of the decedent's death:

_____ _____

Date of death *Place of death (city, county, state)*

3. "At least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit or declaration."

4. Check one:

☐ "No proceeding is now being or has been conducted in California for administration of the decedent's estate."

☐ "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." (Attach a copy of the consent and of the personal representative's letters.)

5. "The current gross fair market value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code and any property included in a petition filed under Section 13151 of the California Probate Code, does not exceed

$ _____ ."

Enter the amount on the attached Form DE-300 for the date of death: $208,850 if the death was on or after April 1, 2025.

6. A description of the property of the decedent that is to be paid, transferred, or delivered to the affiant or declarant:

Name the bank or company, the type of asset, and the last four digits of the account or another identifying number.

_____

_____

_____

7. The name of the successor of the decedent (as defined in Probate Code section 13006) to the described property, and, if more than one, the share of each:

_____

_____

Form by the Law Office of Ravi Patel (ravilaw.com). Not legal advice. Consult an attorney before you act.

8. Check one:

- ☐ "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."
- ☐ "The affiant or declarant is authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent's interest in the described property."

  For example, the trustee of a trust that receives the property under a pour-over will. Name the trust or other successor:

9. "No other person has a superior right to the interest of the decedent in the described property."

10. "The affiant or declarant requests that the described property be paid, delivered, or transferred to the affiant or declarant." If more than one person signs, each statement in this affidavit is made by each of them, and the property is to be paid, delivered, or transferred to them in the shares stated in paragraph 7.

11. Attached (check each that is attached):

- ☐ A certified copy of the decedent's death certificate (required)
- ☐ Judicial Council Form DE-300 (required if the death was on or after April 1, 2022)
- ☐ Evidence of the decedent's ownership (statement, certificate, policy, or other)
- ☐ Inventory and appraisal of the decedent's California real property by a probate referee
- ☐ Personal representative's written consent and letters
- ☐ Copy of the will and certification of trust

12. "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."

Executed on (date) _____ at (city, state) _____

Signature of affiant 1 (sign in front of the notary)	Signature of affiant 2 (sign in front of the notary)
Printed name	Printed name
Relationship to decedent, or capacity (for example, trustee)	Relationship to decedent, or capacity (for example, trustee)
Mailing address	Mailing address
Signature of affiant 3 (sign in front of the notary)	Signature of affiant 4 (sign in front of the notary)
Printed name	Printed name
Relationship to decedent, or capacity (for example, trustee)	Relationship to decedent, or capacity (for example, trustee)
Mailing address	Mailing address

CERTIFICATE OF ACKNOWLEDGMENT

To be completed by a California notary public. A notary may attach a separate certificate instead.

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 _____

On _____ before me, _____

(here 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)

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 or specific real or personal property in the estate informally, without full administration.

NOTE: The values in the left column apply to property of a decedent who died between April 1, 2022, and March 31, 2025. The values in the right column apply to property of a decedent who died on or after April 1, 2025. To find the values that apply to property of a decedent who died before April 1, 2022, see the Self-Help Guide to the California Courts at https://selfhelp.courts.ca.gov/.

The amount of the adjustment of the prior values is based on the change in the United States city average of the Consumer Price Index for All Urban Consumers for the three-year period ending December 31, 2024, with each adjusted value rounded to the nearest $25. (See Prob. Code, § 890(b).) Unless otherwise provided by statute after April 1, 2025, these values will next be adjusted April 1, 2028.

Probate Code Section	Description	Amount (death between Apr. 1, 2022, and Mar. 31, 2025)	Amount (death on or after Apr. 1, 2025)
1. SMALL ESTATE SET-ASIDE UNDER PROBATE CODE SECTIONS 6600–6613			
§§ 6602, 6609	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:	$ 95,325	$ 107,900
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 for personal services from any employment, not to exceed:	$ 18,450	$ 20,875
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 any property described in Probate Code section 13050 and any property included in a petition filed under Probate Code section 13151—must not exceed:	$ 184,500	$ 208,850
c. PETITION & COURT ORDER DETERMINING SUCCESSION TO PRIMARY RESIDENCE			
§§ 13151, 13152, 13154	The gross value of the decedent's primary residence in California must not exceed:	$ 184,500	$ 750,000
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 any real property described in Probate Code section 13050—must not exceed:	$ 61,500	$ 69,625
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: *(This limit does not apply if the decedent was a firefighter or peace officer described in Government Code section 22820(a).)*	$ 18,450	$ 20,875

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 Primary Residence* (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 [Rev. April 28, 2025]

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

Probate Code, §§ 890, 6602, 6609, 13050, 13100–13101, 13151–13154, 13200, 13600–13601
courts.ca.gov