

## **AFFIDAVIT FOR COLLECTION OF SMALL ESTATE BY DISTRIBUTEES**

Attached is a sample of how to complete the *Affidavit for Collection of Small Estate By Distributees*.

Please read the Arkansas Code we have provided for you. The code will explain how you are to comply with the laws concerning Small Estates and the time period you must allow before action can be taken on the estate.

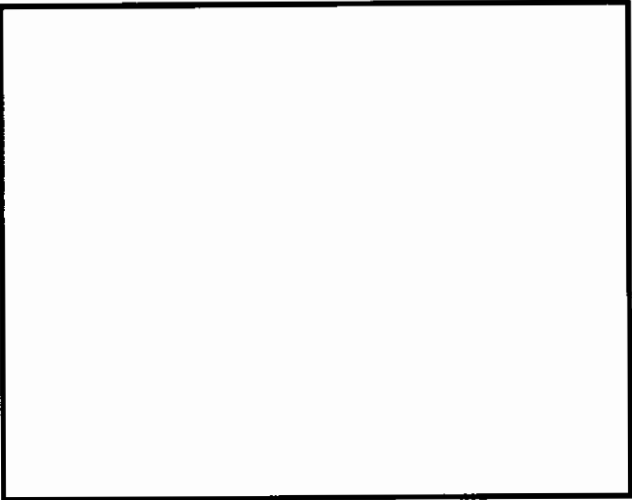
We have provided samples of the form used to publish the required notice in the newspaper. Also included is a sample of the Deed of Distribution that can be created and used to file with the Circuit Clerk (Room 207) to transfer ownership of real property.

Our office is prohibited by Arkansas law from answering specific questions regarding any probate matters. However, all of the documents we have provided for you should make it possible to fulfill the requirements of the Arkansas Code which are:

1. Wait 46 days after the death of the decedent.
2. Complete the affidavit and have it notarized (OUR OFFICE CANNOT NOTARIZE THE AFFIDAVIT).
3. File the affidavit in the County Clerk's office – the fee is \$30.00 (We accept cash, or money order.)
4. Publish the notice in the newspaper. Page 4 of this packet.
5. Wait three months after the date of the first publication of the first notice.
6. File Deed of Distribution or take other appropriate action on the estate (e.g. close banks accounts, etc.)

If you still have questions, please contact the attorney of your choice.

**SARAH SMITH, COUNTY CLERK COUNTY CLERK**



IN THE CIRCUIT COURT, PROBATE DIVISION GARLAND COUNTY, AR  
 NO. \_\_\_\_\_

IN THE MATTER OF THE ESTATE OF

NAME OF DECEASED \_\_\_\_\_, deceased

**AFFIDAVIT FOR COLLECTION OF  
 SMALL ESTATE BY DISTRIBUTEES**

Come NAME OF PERSON FILING AFFIDAVIT \_\_\_\_\_

and 2ND NAME OF PERSON FILING AFFIDAVIT (IF APPLICABLE) \_\_\_\_\_ and, for the purpose of dispensing with administration

on the estate of NAME OF DECEASED \_\_\_\_\_ deceased, state on oath:

1. The decedent NAME OF DECEASED \_\_\_\_\_ aged AGE AT DEATH \_\_\_\_\_

who resided at ADDRESS OF DECEASED \_\_\_\_\_ in COUNTY OF DECEASED \_\_\_\_\_ County, Arkansas,

died at LOCATION OF DEATH (E.G., NATIONAL PARK HOSPITAL, HOT SPRINGS, AR) \_\_\_\_\_, on or about the DAY OF DEATH \_\_\_\_\_

day of MONTH OF DEATH \_\_\_\_\_, 20 YEAR \_\_\_\_\_. No petition for the appointment of a personal representative for

decedent's estate is pending or has been granted.

AFFIDAVIT MAY BE  
 FILED ON OR AFTER  
 THE 46TH DAY  
 AFTER DEATH

2. More than forty-five (45) days have elapsed since the death of the decedent.

3. The value, less encumbrances, of all property owned by the decedent at the time of death, excluding the homestead of and statutory allowance for the benefit of the surviving spouse or minor children, if any, of the decedent, does not exceed \$100,000.

4. There are no unpaid claims or demands against the decedent or the decedent's estate, and the Department of Human Services furnished no federal or state benefits to the decedent (or, that if such benefits have been furnished, the Department of Human Services has been reimbursed in accordance with state and federal laws and regulations).

5. An itemized description and valuation of the decedent's personal property; a legal description and valuation of the decedent's real property, including homestead, if any; and names and addresses of persons having possession thereof or residing on any of the decedent's real property, are:

Description of Property, and Extent and Details of Encumbrances, If Any

Valuation Less Encumbrances

In Possession of

These are Examples Only

Listed below are examples of the types of personal property a deceased person may own (not limited to this list):

AUTOMOBILE - 1980 TOYOTA CAMARY	\$5,000.00 (Value of Auto)	JANE DOE (Name of Person With Possession of Auto)
HOUSE - 111 Main Street, Hot Springs, AR Garland County	\$5,000.00 (Value of House)	JANE DOE (Name of Person With Possession of House)
LOT (WITH LEGAL DESCRIPTION)	\$5,000.00 (Value of Lot)	JANE DOE (Name Of Person With Possession of the Lot)
SAVING ACCOUNT	\$5,000.00 (Amt. in Acct.)	SUMMIT BANK (Name of Bank)
IRA	\$5,000.00 (Value of IRA)	MORGAN STANLEY (Name of Institution)

6. The names, ages, relationships to the decedent and residence addresses of the persons entitled to receive the property of the decedent as surviving spouse, heirs or devisees of decedent's will are:

Name	Age	Relationship	Residence Address
JANE DOE	35	Wife	222 Main Street, Hot Springs, AR 71901
JOHN DOE	11	Son	222 Main Street, Hot Springs, AR 71901

THIS SECTION IS USED TO LIST THE HEIRS OF THE ESTATE

THEREFORE, the distributee[s] of this estate shall be entitled to distribution of the property identified above, without the necessity of an order of the court or other proceeding, upon furnishing a copy of this Affidavit, certified by the clerk, to any person owing any money, having custody of any property, or acting as registrar or transfer agent of any evidence of interest, indebtedness, property or right of the decedent.

THIS SECTION MUST BE SIGNED IN FRONT OF A NOTARY.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Affiant)  
\_\_\_\_\_  
(Affiant)  
\_\_\_\_\_  
(Affiant)

STATE OF ARKANSAS  
COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

(SEAL)

**CERTIFICATE OF CLERK**

The undersigned clerk of the Probate Court of Garland County, Arkansas, certifies that the foregoing is a true copy of an affidavit filed in this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that the same remains on file and that no petition for the appointment of a personal representative of the estate described in the caption has been filed in this Court.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

SARAH SMITH, Clerk

By \_\_\_\_\_ Deputy Clerk

(SEAL)

NOTICE TO BE PRINTED IN PAPER

**NOTICE**

In the Circuit Court of Garland County, Arkansas Probate Division

IN THE MATTER OF THE ESTATE OF

No. \_\_\_\_\_

\_\_\_\_\_, Deceased

Last Known Address of Decedent: \_\_\_\_\_

Date of Death: \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, under Ark. Code  
Ann. § 28-41-101 an Affidavit For Collection of Small Estate was filed in  
the Circuit Court, Probate Division, Garland County, Arkansas.

All persons having claims against the estate must exhibit them, properly verified, to the distributee or his or her attorney within three (3) months from the date of the first publication of this notice or they shall be forever barred and precluded from any benefit of the estate.

The name, mailing address, and telephone number of the distributee or distributee's attorney is: \_\_\_\_\_

This notice first published \_\_\_\_\_, 20\_\_\_\_\_.

# DEED OF DISTRIBUTION (SAMPLE)

KNOW ALL MEN BY THESE PRESENTS:

Your Name, Distributee of the Estate of Name of Deceased, deceased ("GRANTOR"), pursuant to the Affidavit of Collection of Small Estate by Distributee filed in the Circuit Court, Probate Division of Garland County, Arkansas, 18<sup>th</sup> Division, on date affidavit was filed (Case No: case No.) and the power granted by Ark. Code Ann. § 28-41-102(d), and for and in consideration of the sum of Ten Dollars (\$10.00) and for other good and valuable consideration, paid by Your Name ("GRANTEE"), the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, and convey unto the said GRANTEE, and unto his/her heirs and assigns forever, the following described lands situated in the County of Garland, State of Arkansas.

Enter Description of Property Here

TO HAVE and TO HOLD the same unto said GRANTEE and unto his/her heirs and assigns forever, with all tenements, appurtenances, and hereditaments thereunto belonging.

And GRANTOR hereby covenants with the said GRANTEE that GRANTOR will forever warrant and defend the title to said lands against all lawful claims and encumbrances whatsoever.

IN WITNESS WHEREOF, the name of GRANTOR is hereunto affixed as of Date Signed

Estate of Name of Deceased

SIGN YOUR NAME HERE

\_\_\_\_\_  
Your Name, Distributee

A.C.A. § 28-41-102

Arkansas Code of 1987 Annotated Official Edition  
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\*\*\* Legislation is current through the 2014 Fiscal Session and updates \*\*\*  
\*\*\* received from the Arkansas Code Revision Commission through \*\*\*  
\*\*\* July 2, 2014. \*\*\*

Title 28 Wills, Estates, and Fiduciary Relationships  
Subtitle 4. Administration Of Decedents' Estates  
Chapter 41 Distribution Without Administration

A.C.A. § 28-41-102 (2014)

**28-41-102. Payment, transfers, or deliveries pursuant to affidavit.**

(a) The person making payment, transfer, or delivery pursuant to the affidavit described in § 28-41-101 shall be released to the same extent as if made to a personal representative of the decedent, and he or she shall not be required to see to the application thereof or to inquire into the truth of any statement in the affidavit.

(b) (1) The distributee to whom payment, transfer, or delivery is made, as trustee, shall be answerable to any person having a prior right and shall be accountable to any personal representative thereafter appointed.

(2) However, if notice to creditors of the decedent's death and the collection of his or her estate is published as provided by § 28-41-101, all claims as to real property within the estate, in any event, shall be forever barred at the end of three (3) months after the date of the first publication of the first notice.

(3) Nothing in this section shall affect or prevent any action or proceeding to enforce any mortgage, pledge, or other lien arising under contract or statute upon the property of the estate.

(c) If the person to whom the affidavit is delivered refuses to pay, transfer, or deliver the property as provided in this section, the property may be recovered or delivery compelled in an action brought in a court of competent jurisdiction for such a purpose by or in behalf of the distributee entitled to the property upon proof of the facts required to be stated in the affidavit.

(d) After filing the affidavit and publishing the notice required by § 28-41-101, the distributee entitled to the transfer or delivery of real property shall:

(1) Be authorized to issue to himself or herself a **deed of distribution** for the real property of the decedent as if made by a personal representative of the decedent; and

(2) Deliver notice of the transfer of ownership to the county assessor of each county where the real property is located.

serve process in civil actions at least ten (10) days prior to the date set for the hearing;

(3) By registered mail, requesting a return receipt signed by addressee only, addressed to the person to be served located in the United States at his or her address stated in the petition for the hearing, to be posted by depositing in any United States Post Office in this state at least fifteen (15) days prior to the date set for the hearing;

(4)(A) By publishing one (1) time a week for two (2) consecutive weeks in a newspaper published and having a general circulation in the county, with the first day of publication to be at least fifteen (15) days prior to the date set for the hearing.

(B) In addition, when service by publication only is employed, all persons whose names and addresses appear in the petition shall be served by ordinary mail, bearing on the envelope the return address of the clerk, in the same time and manner as provided in subdivision (b)(3) of this section with respect to notice by registered mail, except that no registration shall be required;

(5) By any combination of two (2) or more of the methods set out in subdivisions (b)(1)-(4) of this section; or

(6) By any method of service allowed by the Arkansas Rules of Civil Procedure.

(c) BY WHOM PREPARED, SIGNED, AND SERVED.

(1) Except when by statute or by order of the court otherwise expressly provided, a notice in a probate proceeding shall be in writing or print and prepared by or by procurement of the party upon whom rests the burden of giving the notice and shall be signed by the clerk or the attorney for the party upon whom rests the burden of giving notice. If service is to be by mail, the person preparing the notice shall sign it or deliver it to the clerk properly prepared for the clerk's signature.

(2)(A) In the case of notices served by registered or certified mail, the clerk or the attorney of record in a probate proceeding for the party upon whom rests the burden of giving notice pursuant to this section may deposit the notices in the United States mail, cause the receipts for the delivery of the certified or registered mail to be returned to the clerk or the attorney, and duly prove service by the execution and filing with the clerk of the statement prescribed in subsection (f) of this section.

(B) Personal service may be made in any part of this state and, except as provided by subdivision (b)(2) of this section, may be made by any person not an incompetent.

(d) SERVICE UPON AN INCOMPETENT PERSON. Except when otherwise expressly provided by statute with reference to a particular proceeding, notice to an incompetent person shall be served as follows:

(1) Upon the guardian, if any, of the estate of the incompetent person if the proceedings affect his or her estate, and upon the guardian, if any, of the person of the incompetent person if the proceedings affect the control or custody of his or her person;