

Affidavit for Transfer of Personal Property Worth \$150,000 or Less

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If you have the legal right to inherit personal property, like money in a bank account or stocks, and the entire estate is worth \$150,000 or less, you may not have to go to court. There is a simplified process you can use to transfer the property to your name. But this process is not for real property, like a house.

Figuring out if the estate is worth \$150,000 or less

To calculate the value of the estate:

Include:

- All real and personal property.
- All life insurance or retirement benefits that will be paid to the estate (but not any insurance or retirement benefits designated to be paid to some other person).

Do not include:

- Cars, boats or mobile homes.
- Real property outside of California.
- Property held in trust, including a living trust.
- Real or personal property that the person who died owned with someone else (joint tenancy).
- Property (community, quasi-community, or separate) that passed directly to the surviving spouse or domestic partner.
- Life insurance, death benefits or other assets not subject to probate that pass directly to the beneficiaries.
- Unpaid salary or other compensation up to \$5,000 owed to the person who died.
- The debts or mortgages of the person who died. (You are not allowed to subtract the debts of the person who died.)
- Bank accounts that are owned by multiple persons, including the person who died.

For a complete list, see [California Probate Code section 13050](#).

Figuring Out if You Have the Legal Right to Inherit the Property

You can use the affidavit process if you have the legal right to inherit property from the person who died.

You must be a beneficiary in the person's will or an heir if the person died without a will. Other people may qualify too, like the guardian or conservator of the estate. For a complete list, see [California Probate Code section 13051](#).

It can be very complicated to figure out if you have the legal right to inherit the property. If there is no valid will, the law says how to determine if someone is a legal "heir" by looking at the type of property, the relationship between all the persons claiming to be heirs, and other issues. If you are not sure if you qualify to inherit the property in question, talk to a lawyer. Click for [help finding a lawyer](#).

Using the Affidavit to Transfer Personal Property

Once you know the value of the property is \$150,000 or less and you personally qualify to use the affidavit process, follow these instructions. But keep in mind you must wait at least 40 days after the person dies to transfer the personal property. And, remember, you cannot use this affidavit process to transfer real property like land or buildings.

To use to Affidavit process:

1. Fill out the Affidavit.

Many banks and other institutions have their own affidavit. So, check with them first and ask for one. Your court's [self-help center](#) may also have this form or a sample you can use to guide you.

- You can list all assets in 1 affidavit. Or you can do one affidavit for each asset.

2. Attach (to the affidavit):

- A certified copy of the death certificate of the person who died.
- Proof that the person who died owned the property (like a bank passbook, storage receipt, stock certificate).
- Proof of your identity (like a driver's license or passport)
- An *Inventory and Appraisal (Form DE-160)* of all real property owned by the decedent in California. You will need to get this form signed by a probate referee. If there is no real

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property, then you do not need this form.

3. Have the affidavit notarized.

Legally, you are not required to have the affidavit notarized BUT many institutions will ask you to, so it is a good idea to notarize it before you try to use it to transfer the property.

4. If there are other people entitled to inherit the property, they MUST also sign the affidavit.

This shows you all agree that the property listed on your affidavit can be transferred to you.

5. To have the property transferred to you, give the affidavit to the person, company, or bank that has the property now.

NOTE: Make sure the case is not already in probate court. If it is, you cannot use the affidavit process unless the personal representative of the estate agrees in writing to let you do so.

Need help?

You can talk to a lawyer. Contact your local bar association's [lawyer referral service](#)[®] or call 1-866-442-2529.

Or read the law on property transfers. See [California Probate Code sections 13100-13115](#)[®].