

VIRGINIA SMALL ESTATE ACT AFFIDAVIT
Va. Code §64.2-600 & 601

Note to the "Person" to whom this Affidavit is delivered: *Any person having possession of a small asset shall pay or deliver the small asset to the designated successor of the decedent upon being presented an affidavit made by all of the known successors. If you do not understand or have questions regarding your legal responsibilities relative to this Affidavit, you should consult an attorney at law. "Person" means any individual, corporation, business trust, fiduciary, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.*

I/WE, the "Successor(s)" _____, after being first duly sworn, depose and state as follows:

1. That _____, the "Decedent", died on the _____ day of _____, 20_____.

2. That at the time of death, the Decedent's estate consisted only of a "Small Asset". *"Small asset" means any indebtedness owed to or any asset belonging or presently distributable to the decedent, other than real property, having a value, on the date of the decedent's death, of no more than \$50,000. A small asset includes any bank account, savings institution account, credit union account, brokerage account, security, deposit, tax refund, overpayment, item of tangible personal property, or an instrument evidencing a debt, obligation, stock, or chose in action. Upon presentation of this affidavit, the designated successor may endorse, or negotiate any small asset that is a check, draft, or other negotiable instrument that is payable to the decedent or the decedent's estate.*

A description of the Small Asset appears below:

Bank Account Savings Institution Account Credit Union Account Brokerage Account Security Deposit Tax Refund Overpayment Tangible Personal Property Instrument Evidencing a Debt (i.e. promissory note) Obligation (i.e. a contract right) Stock Chose in Action (i.e. right to sue) Description of Small Asset (if required by recipient of Affidavit)

3. That the value of Decedent's entire personal probate estate as of the date of the decedent's death, wherever located, does not exceed \$50,000.00.

4. That at least 60 days have elapsed since the Decedent's death.

5. That no application for the appointment of a personal representative is pending or has been granted in any jurisdiction.

6. That the Decedent's will, if any, was duly probated.

7. That the claiming Successor is entitled to payment or delivery of the small asset and the basis upon which such entitlement is claimed appears below (check all that apply):
"Successor" means any person, other than a creditor, who is entitled under the decedent's will or the laws of intestacy to part or all of a small asset.

Surviving Spouse Beneficiary under Will Heir (no Will) Other

If Other, describe relationship to the Decedent: _____

8. The names and addresses of all Successors, to the extent known, are:

(IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL PAGE(S) TO AFFIDAVIT)

9. The name of each successor designated to receive payment or delivery of the small asset on behalf of all successors is/are:

"Designated Successor" means one or more successors who are designated pursuant to subdivision A 7 of § 64.2-60 to receive payment or delivery of the small asset on behalf of all successors.

10. That the Designated Successor shall have a fiduciary duty to safeguard and promptly pay or deliver the small asset as required by the laws of the Commonwealth.

WHEREFORE, the undersigned Successor(s) to the Small Asset of the Decedent, make this Affidavit pursuant to Va. Code § 64.2-601.

(ALL SUCCESSORS MUST SIGN BELOW)

Signature

Signature

Signature

Signature

Signature

Signature

Signature

Signature

(IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL PAGE(S) TO AFFIDAVIT)

STATE OF _____, City/County of _____, to-wit:

This Virginia Small Estate Act Affidavit was acknowledged, subscribed and sworn to before me this _____ day of _____, 20____, by

My Commission expires: _____.

Notary Registration number: _____.

NOTARY SEAL

NOTARY PUBLIC

ADD AS MANY NOTARY ACKNOWLEDGEMENTS AS NEEDED

Code of Virginia
Title 64.2. Wills, Trusts, and Fiduciaries
Chapter 6. Transfers without Qualification

§ 64.2-600. Definitions.

For the purposes of this article, the following definitions apply:

"Designated successor" means one or more successors who are designated pursuant to subdivision A 7 of § 64.2-601.

"Person" means any individual, corporation, business trust, fiduciary, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

"Small asset" means any indebtedness owed to or any asset belonging or presently distributable to the decedent, other than real property, having a value, on the date of the decedent's death, of no more than \$50,000. A small asset includes any bank account, savings institution account, credit union account, brokerage account, security, deposit, tax refund, overpayment, item of tangible personal property, or an instrument evidencing a debt, obligation, stock, or chose in action.

"Successor" means any person, other than a creditor, who is entitled under the decedent's will or the laws of intestacy to part or all of a small asset.

1981, c. 281, § 64.1-132.1; 2010, c. 269; 2012, c. 614.

Code of Virginia
Title 64.2. Wills, Trusts, and Fiduciaries
Chapter 6. Transfers without Qualification

§ 64.2-601. Payment or delivery of small asset by affidavit.

A. Any person having possession of a small asset shall pay or deliver the small asset to the designated successor of the decedent upon being presented an affidavit made by all of the known successors stating:

1. That the value of the decedent's entire personal probate estate as of the date of the decedent's death, wherever located, does not exceed \$50,000;
2. That at least 60 days have elapsed since the decedent's death;
3. That no application for the appointment of a personal representative is pending or has been granted in any jurisdiction;
4. That the decedent's will, if any, was duly probated;
5. That the claiming successor is entitled to payment or delivery of the small asset, and the basis upon which such entitlement is claimed;
6. The names and addresses of all successors, to the extent known;
7. The name of each successor designated to receive payment or delivery of the small asset on behalf of all successors; and
8. That the designated successor shall have a fiduciary duty to safeguard and promptly pay or deliver the small asset as required by the laws of the Commonwealth.

B. The designated successor may discharge his fiduciary duty to promptly pay or deliver the small asset to a successor who is, or is reasonably believed to be, incapacitated or under a legal disability, by paying or delivering the asset directly to the incapacitated or disabled successor or applying it for such successor's benefit, or by:

1. Paying it to such successor's conservator or, if no conservator exists, guardian;
2. Paying it to such successor's custodian under the Virginia Uniform Transfers to Minors Act (§ 64.2-1900 et seq.) or custodial trustee under the Uniform Custodial Trust Act (§ 64.2-900 et seq.), and, for that purpose, creating a custodianship or custodial trust;
3. If the designated successor does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of such successor to be expended on such successor's behalf; or
4. Managing it as a separate fund on such successor's behalf, subject to such successor's continuing right to withdraw the asset.

C. Any successor may be represented and bound under virtual representation provisions of §§ 64.2-714, 64.2-716, and 64.2-717 with respect to affidavits required and designations of persons to receive payment or delivery of a small asset under this article.

D. A transfer agent of any security, upon the surrender of the certificates, if any, evidencing the security, shall change the registered ownership on the books of a corporation from the decedent to the designated successor upon the presentation of an affidavit as provided in subsection A.

E. Upon the presentation of an affidavit as provided in subsection A, the designated successor may endorse or negotiate any small asset that is a check, draft, or other negotiable instrument that is payable to the decedent or the

decedent's estate. Notwithstanding the provisions of §§ 8.3A-403, 8.3A-417, and 8.3A-420, a financial institution accepting such check, draft, or other negotiable instrument presented for deposit in such manner is discharged from all claims for the amount accepted.

1981, c. 281, § 64.1-132.2; 1996, c. 549; 2001, c. 368; 2006, c. 280; 2010, c. 269; 2012, c. 614; 2013, c. 68; 2015, c. 617; 2019, c. 360.