# Affidavit to Establish Title of Distributee to Property in Intestate Estate Less than $40,000.00 (The Small Estate Affidavit)

Please read carefully the following information, checklist of requirements, and instructions, and complete the forms provided for filing a Small Estate Affidavit. **You may file this affidavit with or without an attorney** (pro se). Clerks can generally assist you with these forms, but Clerks may not give legal advice nor answer personalized or specific legal questions. If everything has been filed and approved by the Judge, a Certificate of Clerk will issue. **That Certificate entitles the affiant (the person(s) signing and filling out the affidavit)** to pay creditors of the estate, and then distribute the estate to the distributees, in the proportions set out by statute.

## Checklist of necessary filings:

- ☐ **MO HealthNet Release** (Estate Notice attached)
- ☐ **Confidential Case Filing Information Sheet** (attached)
- ☐ **Affidavit** to Establish Title of Distributee to Property in Estate of Less than $40,000.00 (attached)
- ☐ **Consent(s) and Motion to Waive Bond** – Signed by all heirs (attached)
  - A corporate surety bond in the amount of the estate may be required by the Court.
  - Contact the clerk for more information.
- ☐ **Appendix A** – Summary of assets of Decedent (attached)
- ☐ **Appendix B** – List of all Heirs and Distributees (attached)
- ☐ **Appendix C** – List of all Creditors (attached)
- ☐ **Redaction Certification** – Signed by filer (attached)
- ☐ **Death Certificate**. If a death certificate is delayed pending autopsy, or for some other reason, please speak to a clerk about this.
- ☐ **Paid Funeral Bill**
- ☐ **Obituary**
- ☐ **The Filing fee is $68.50**

If the value of the estate that needs to go through probate is between $15,000.00 and $40,000.00, there will be an additional publication fee. Publication for two weeks is required on estates above $15,000.00. We will send the required notice to the publisher and you will need to pay them directly for the publication. They will send an "affidavit of publication" to the court when you have paid them and that process is done.

## Checklist of fillings that may need to be filed:

If decedent owned vehicle/mobile home/boat/trailer/etc.

- Certificate of title
- Verification of value (some people file the Kelley Blue Book valuation)
- Proof of a car loan/mortgage (if applicable)

If there are checks in decedent's name or payable to decedent's estate.

- Copy of the check, front and back

If decedent owned bank account(s), 401(k), brokerage account(s), IRA, etc.

- Proof of value/Verification of Balances
- Account number
- Recent Bank Statement
- If applicable, number of stock shares and fair market value of the stock

If there are debts/loans/mortgages/encumbrances.

- Proof of debt(s), i.e. a mortgage statement or bill

If decedent owned a safety deposit box.

- An inventory of the safe deposit box can be filed with the court
- If the depository will not release information about what is inside of it, a petition to open and inventory safety deposit box can be filed
- That Petition has a separate filing fee of $68.50

If decedent owned real property.

- Deed to the property must be filed
- A full legal description must be provided
- An appraisal must be filed

If an heir to the estate has died.

- A death certificate for them may be required
- More information about their heirs may be required

## Instruction:

1) The Small Estate Affidavit must be notarized or signed in front of a Probate Clerk.
2) If a bond is ordered or a surety bond is filed, two years after the Certificate of Clerk is issued, the bond may be discharged.
3) Please list all property that is in the deceased person's name only. If you discover more assets after the case has closed, you may have to reopen the estate and pay another filing fee ($68.50) and possibly pay the publication fee as well. If the estate is still open, you may need to amend your paperwork.
4) Some of these forms and some of your filings may be publicly accessible on the internet. Please review redaction information before filing.
5) You may file additional paperwork if you would like to do so. The Court may require more information or documents or amended filings in addition to the above filings, after the case has started.
6) MO HealthNet Release (Estate Notice) must be filled out & sent off to the State of MO. You can mail, fax or email it to them. The Court will need their response with your paperwork.

MISSOURI DEPARTMENT OF SOCIAL SERVICES
MO HEALTHNET DIVISION

# ESTATE NOTICE

| 1. DECEDENT NAME | 2. MO HEALTHNET PARTICIPANT NUMBER (IF KNOWN) |
|---|---|
| | |

| 3. DATE OF BIRTH | 4. DATE OF DEATH | 5. SOCIAL SECURITY NUMBER |
|---|---|---|
| | | |

6. SURVIVING SPOUSE

☐ YES ☐ NO Name: _____

| 7. CHILDREN UNDER AGE 21 | 8. IS THERE A BLIND OR DISABLED DEPENDENT |
|---|---|
| ☐ YES ☐ NO | ☐ YES ☐ NO |

| 9. COUNTY OF ESTATE FILING | 10. DATE ESTATE FILED | 11. BALANCE OF ASSETS |
|---|---|---|
| | | |

12. ATTORNEY NAME

13. STREET ADDRESS, CITY, STATE, ZIP CODE

| 14. TELEPHONE NUMBER | 15. FAX NUMBER OR EMAIL ADDRESS |
|---|---|
| | |

16. EXECUTOR, PERSONAL REPRESENTATIVE, OR CONSERVATOR NAME

17. STREET ADDRESS, CITY, STATE, ZIP CODE

| 18. SIGNATURE | 19. DATE |
|---|---|
| | |

FAX: (573) 526-1162

Mail: Department of Social Services
MO HealthNet Division
ATTN: Cost Recovery Unit
PO Box 6500
Jefferson City, MO 65102-6500

TELEPHONE: (573) 751-2005

EMAIL: MHD.COSTRECOVERY@dss.mo.gov

**FOR MO HEALTHNET DIVISION USE ONLY**

☐ Decedent was a MO HealthNet Participant. Case will be reviewed to determine if referral to be made to Attorney General Office for filing claim.

☐ Decedent was not a MO HealthNet Participant. Waiver issued on: _____

| MO HEALTHNET DIVISION SIGNATURE | DATE |
|---|---|
| | |

IN THE 8TH JUDICIAL CIRCUIT, RAY COUNTY, MISSOURI
AFFIDAVIT TO ESTABLISH TITLE OF DISTRIBUTEE TO PROPERTY IN ESTATE HAVING LESS THAN $40,000.00 - INTESTATE (without will)

IN THE ESTATE OF _____ ESTATE NO. _____

The undersigned, **a distributee entitled to receive property of the decedent**, being first duly sworn, states that _____, deceased, whose domicile and last residence address was _____, _____, ____, _____
address city state zip

in the County of Ray, State of Missouri, died on _____ (date); that all **unpaid debts, claims, or demands against the decedent** or the decedent's estate and all estate taxes due, if any, on the property transfers involved, ___ **have been** or ___ **will be paid, except that any liability by the affiant for the payment of unpaid claims shall be limited to the value of the property received.**

Attached hereto as **Appendix A** is an itemized description and valuation of the property of said decedent, together with the names and addresses of the persons having possession of the same (including registrars or transfer agents of all corporate shares and bonds).

Attached hereto as **Appendix B** are the names, addresses, and relationship to the decedent of the persons entitled to and who will receive the property, and who are entitled at the present time to take a defeasible interest in said property, and the facts establishing their right to the real and personal property described in Appendix A attached hereto.

The value of the entire estate, less debts, liens, and encumbrances, **does not exceed the amount of forty thousand dollars** (if decedent's date of death is less than one year prior to filing the Affidavit and decedent's debts are used to reduce the value of the decedent's assets to forty thousand dollars (or less), affiant must attach **Appendix C** to the Affidavit, a list of creditors, along with the amount owed to each creditor).

**Thirty days have elapsed** since the death of the decedent and no application for letters testamentary or for administration or for refusal of letters under Section 473.090 RSMo is pending or has been granted.

THE UNDERSIGNED SWEARS THAT THE MATTERS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT ACCORDING TO THE UNDERSIGNED'S BEST KNOWLEDGE AND BELIEF, SUBJECT TO PENALTY FOR MAKING A FALSE AFFIDAVIT OR DECLARATION.

1. **Select one that applies.**
   - ☐ The decedent did not have a will
   - ☐ The decedent had a will that was not presented for probate within the limitation periods specified in 473.050, RSMo
2. **Select one that applies.**
   - ☐ The total value of the estate is less than $15,000.00 and publication is not required
   - ☐ The total value of the estate exceeds $15,000.0 and publication is required.
     Newspaper for Publication: _____
3. **Select one that applies.**
   - ☐ All heirs have signed consents for the undersigned to serve as affiant and to waive the filing of a bond by affiant.
   - ☐ A bond in the amount of $_____ with corporate surety has been filed with and approved by the court.

**Subscribed and sworn before me on:**

_____

_____

Notary Public

My commission expires:

_____

_____

Division Clerk

_____

**Affiant (printed name)**

_____

Affiant (signature)

_____

_____

_____

Affiant's address and telephone #

Attorney for affiant: _____ Bar #: _____

Attorney address: _____

_____

Attorney telephone: _____

IN THE 8TH CIRCUIT COURT OF RAY COUNTY, MISSOURI – PROBATE DIVISION

IN THE ESTATE OF: _____
ESTATE NUMBER: _____

## CONSENT AND MOTION TO WAIVE BOND

We, the undersigned, entitled to administer the estate of _____, deceased, consent to _____ serving as the affiant in filing the Affidavit to Establish Title of Distributee to Property in Estate having less than $40,000.00, and hereby move that the court dispense with the filing of a bond by the affiant.

Name (printed): _____

Signature: _____

Complete Address: _____

Relationship to Decedent: _____

Name (printed): _____

Signature: _____

Complete Address: _____

Relationship to Decedent: _____

Name (printed): _____

Signature: _____

Complete Address: _____

Relationship to Decedent: _____

Name (printed): _____

Signature: _____

Complete Address: _____

Relationship to Decedent: _____

**APPENDIX A** - List all personal property assets of the decedent.

| Type of Account (Checking/Savings/MMA, etc.) and Account # | Name, Location of Bank | Value |
|---|---|---|
| | | |
| | | |
| | | |

| Vehicle - Make, Model, Year and VIN # | Current Possessor of Vehicle - Name, Address | Value |
|---|---|---|
| | | |
| | | |
| | | |

| Check - #, name, and payor | Current Possessor of Check - Name, Address | Value |
|---|---|---|
| | | |
| | | |
| | | |

| Insurance - Policy Type and Number | Name, Location of Insurer | Value |
|---|---|---|
| | | |
| | | |

| Safe Deposit Box # | Name, Address of Depository | Value of Contents |
|---|---|---|
| | | |

| Other Personal Property | Location and Possessor | Value |
|---|---|---|
| | | |
| | | |
| | | |

| Stocks or bonds - Amount of stock shares, account # | Name, Location | Value of stock share, total value |
|---|---|---|
| | | |
| | | |
| | | |

**Sum value of all personal property:** $

Affiant cannot provide value or proof of value for the following assets, for the following reason(s):

**INSTRUCTIONS**

List as much information as possible. File verification of balances or of value for each asset listed. You may also be asked to file verification that the decedent owned the asset listed.

If you do not have all the information, or do not have accurate or sufficient information at the time of filing, you may be asked to amend or correct what is written or file additional items with the Court.

If there are more assets than can be listed on this page, please attach a copy of this page with a list of all the assets and all the information requested.

If something does not apply you may indicate that it is not applicable (N/A).

Provide a total value of all of the decedent's property here.

If the value or proof of value is being withheld or is unable to be provided, please explain here and describe the asset.

## **APPENDIX A** - continued

List all real property of the decedent

| Address | Full Legal Description | Value |
|---|---|---|
| | | |
| | | |
| | | |

Please complete below. You may have to file verification of any debts of the decedent that are listed below.

| |
|---|
| Sum value of Personal Property: |
| Sum Value of Real Property: |
| Deduction of any loans/debts/liens/ mortgages/emcumbrances: |
| Value of the estate, less any deductions as listed above: |

☐ To the best of Affiant's knowledge, subject to the penalties of making a false affidavit or declaration, Affiant swears that the estate value, all of its assets described above, is less than ☐ $40.000.00 and/or ☐ $15,000.00.

☐ Affiant swears that verification of value cannot be provided for _____ _____asset(s) as described in Appendix A, and swears that the total estate value is less than ☐ $40,000.00 and/or ☐ $15,000.00, and ☐ will provide receipts for those assets after distribution occurs.

## **APPENDIX B** - LIST DECEDENT'S SPOUSE (at time of death) AND ALL CHILDREN

**Spouse** of Decedent:

**(if none or pre-deceased, so state)**

Name:

Address ☐ Deceased

DOD:

Child(ren) of Decedent:

**(if a child pre-deceased, list the child's D.O.B. and D.O.D.)**

Name:

Address DOB:

DOD:

Name:

Address DOB:

DOD:

Name:

Address DOB:

DOD:

Name:

Address DOB:

DOD:

Name:

Address DOB:

DOD:

**INSTRUCTIONS**

Full names, addresses, dates of birth or death (if applicable) must be filled out.

List all biological or legally adopted children of the decedent. If they have also passed, you must provide information about their heir(s) and if there was an Estate opened for them. If decedent had no children, you must indicate that.

If Decedent had more children, fill out an additional sheet.

The spouse and child(ren) by law must be listed, regardless of no contact or other issues. If their address, DOB, DOD, etc, are unknown, you may indicate that. But, you may be required to amend your affidavit if it is incomplete, before the certificate of clerk will be issued.

## **ONLY FILL OUT BELOW IF** DECEDENT HAD NO SPOUSE AND NO CHILD(REN) OR LINEAL DESCENDANTS

Mother of Decedent: **(if deceased, so state with DOD)**

Name:

Address ☐ Deceased

DOD:

**INSTRUCTIONS** Both parents must be listed if there was no spouse and no children. Any siblings must also be listed, half and whole.

Father of Decedent: **(if deceased, so state with DOD)**

Name:

Address ☐ Deceased

DOD:

If the spouse and/or children on the prior page have all passed, you may have to fill out this page in addition.

## **All Sibling(s)** of Decedent:

Name:

Address ☐ Deceased

DOD:

Name:

Address ☐ Deceased

DOD:

Name:

Address ☐ Deceased

DOD:

**The parents and child(ren) by law must be listed,** regardless of no contact or other issues. If their address, DOB, DOD, etc, are unknown, you may indicate that at the time of filing. But **you may be required to amend your affidavit if it is incomplete,** before the certificate of clerk will be issued.

☐ The above persons listed in Appendix B have a right to the decendent's property as listed in Appendix A because:_____

_____

☐ Affiant is a distributee and can by law file the small estate affidavit because his/her relationship to decedent is: _____

☐ AFTER paying all valid creditors of the estate, Affiant will distribute the remaining assets per the law to ALL the living heirs as listed in Appendix B.

**ONLY** in a situation in which decedent had no spouse, children, or grandchildren; and decedent's parents predeceased; and decedent had no siblings, or Decedent's siblings predeceased without any descendants: **attach a family tree** listing all living heirs, with names and addresses.

## APPENDIX C

**If decedent's date of death is less than one year** prior to the filing of this affidavit, list all known creditors of the decedent, their addresses, and the amount owed.

| Creditor | Address | Amount Owed ($) |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

Case Number (For Court Use Only) _____

# Confidential Case Filing Information Sheet – Probate

| Filing Date: | RAY COUNTY |
|---|---|
| Style of Case:<br><br>(i.e. In the Estate of; In the Matter of; Petitioner v. Respondent.) | ☐ The unredacted document is attached to this filing sheet in place of listing the redacted information identifiers below. |
| Case Type Code:<br>☐ P7 - Will filed during lifetime<br>☐ P9 – Will filed only<br>☐ PI – Small Estate without Will<br>☐ PE – Creditor Refusal of Letters<br>☐ PF – Spouse Refusal of Letters<br>☐ PG – Minor Refusal of Letters | Case Type Description: |

Party Type Code: DEC Party Type Description: Decedent

Name (if a person): (Last) _____ (First) _____ (Middle) _____

Organization (if non-person): _____

Address: _____

City: _____ State: _____ Zip: _____ Contact Telephone Number: _____

Email Address: _____

DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____

Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Party Type Code: AFF/APP/DEP Party Type Description: Affiant / Applicant / Depositor

Name (if a person): (Last) _____ (First) _____ (Middle) _____

Organization (if non-person): _____

Address: _____

City: _____ State: _____ Zip: _____ Contact Telephone Number: _____

Email Address: _____

DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____

Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Party Type Code: HEIR Party Type Description: Heir

Name (if a person): (Last) _____ (First) _____ (Middle) _____

Organization (if non-person): _____

Address: _____

City: _____ State: _____ Zip: _____ Contact Telephone Number: _____

Email Address: _____

DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____

Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Party Type Code: _____ Party Type Description: _____
Name (if a person): (Last) _____ (First) _____ (Middle) _____
Organization (if non-person): _____
Address: _____
City: _____ State: _____ Zip: _____ Contact Telephone Number: _____
Email Address: _____
DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____
Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Party Type Code: _____ Party Type Description: _____
Name (if a person): (Last) _____ (First) _____ (Middle) _____
Organization (if non-person): _____
Address: _____
City: _____ State: _____ Zip: _____ Contact Telephone Number: _____
Email Address: _____
DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____
Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Party Type Code: _____ Party Type Description: _____
Name (if a person): (Last) _____ (First) _____ (Middle) _____
Organization (if non-person): _____
Address: _____
City: _____ State: _____ Zip: _____ Contact Telephone Number: _____
Email Address: _____
DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____
Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Party Type Code: _____ Party Type Description: _____
Name (if a person): (Last) _____ (First) _____ (Middle) _____
Organization (if non-person): _____
Address: _____
City: _____ State: _____ Zip: _____ Contact Telephone Number: _____
Email Address: _____
DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____
Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Party Type Code: _____ Party Type Description: _____
Name (if a person): (Last) _____ (First) _____ (Middle) _____
Organization (if non-person): _____
Address: _____
City: _____ State: _____ Zip: _____ Contact Telephone Number: _____
Email Address: _____
DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____
Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Case Number (For Court Use Only) _____

Party Type Code: _____ Party Type Description: _____

Name (if a person): (Last) _____ (First) _____ (Middle) _____

Organization (if non-person): _____

Address: _____

City: _____ State: _____ Zip: _____ Contact Telephone Number: _____

Email Address: _____

DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____

Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Party Type Code: _____ Party Type Description: _____

Name (if a person): (Last) _____ (First) _____ (Middle) _____

Organization (if non-person): _____

Address: _____

City: _____ State: _____ Zip: _____ Contact Telephone Number: _____

Email Address: _____

DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____

Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Party Type Code: _____ Party Type Description: _____

Name (if a person): (Last) _____ (First) _____ (Middle) _____

Organization (if non-person): _____

Address: _____

City: _____ State: _____ Zip: _____ Contact Telephone Number: _____

Email Address: _____

DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____

Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Party Type Code: _____ Party Type Description: _____

Name (if a person): (Last) _____ (First) _____ (Middle) _____

Organization (if non-person): _____

Address: _____

City: _____ State: _____ Zip: _____ Contact Telephone Number: _____

Email Address: _____

DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____

Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Party Type Code: _____ Party Type Description: _____

Name (if a person): (Last) _____ (First) _____ (Middle) _____

Organization (if non-person): _____

Address: _____

City: _____ State: _____ Zip: _____ Contact Telephone Number: _____

Email Address: _____

DOB/DOD: _____ Gender: ☐ Male ☐ Female SSN: _____

Attorney Name (if represented by counsel): _____ Bar ID: _____ Party Type Code: _____

Case Number (For Court Use Only)

## Instructions

- ✓ Complete this form for all parties known at the time of filing. Provide the most appropriate Case Type and Party Type codes and descriptions. (Found on the Case Types List and Party Types List at www.courts.mo.gov on the Court Forms/Filing Information page.)

- ✓ If additional space is needed, complete additional Confidential Case Filing Information Sheets.

**NOTE:** The **full** Social Security Number (SSN) is ***required*** pursuant to Missouri Supreme Court Operating Rule 4.07 for each party in the case, such as plaintiff, defendant, decedent, or ward/protectee, and is reasonably available. Name and addresses should be listed for all other parties (i.e. heirs, interested parties) on the case and if reasonably available include DOB and social security number. This is a confidential document. This information is needed to open a case in the court's case management system. While cases deemed public under Missouri statutes can be accessed through Case.net, the day and month of birth, SSN, and confidential addresses are NOT provided to the public through Case.net.

## IN THE 8th JUDICIAL CIRCUIT, RAY COUNTY, MISSOURI

| | |
|---|---|
| Name: | **Case Number:** |
| Address: | Case Type: |
| | Style of Case: |
| Document Filed: | |

(Date File Stamp)

# Redaction Certification

**The filer certifies that all documents in this submission for filing with the court comply with all redaction requirements of Rules 19.10, 55.025, or 84.015.**

**COR 2.02**

The responsibility for redacting confidential information rests solely with the counsel, parties, or any other person filing the document. Courts will not review each case document to ensure compliance and will not refuse to accept or file a document on that basis.

On and after the Expanded Remote Access Implementation Date: July 1, 2023

1. All redactions shall be done in a manner that makes it clear that information has been redacted. If necessary to reference the redacted information in a redacted document, filers shall use generic descriptors.

2. When a filer redacts information from a document offered for filing in any court, the filer also must file a confidential redacted information filing sheet that either:

    - has the unredacted version of the document attached; or

    - sets out the information redacted from the document with an explanation referencing where the information was redacted from in the document or the generic descriptors used in the document to reference the redacted information.

3. All filers shall affirmatively certify compliance with the redaction requirements in Rules 19.10, 55.025, and 84.015 when a document is filed. This certification shall be accomplished through an automated process implemented in the electronic filing system for its authorized users or, for filers who are not authorized users of the electronic filing system, by a paper form attached to the document or on the document itself.

4. When a motion is filed alleging a document filed with the court contains insufficiently redacted confidential information, the clerk shall raise the document′s security level to a confidential setting. The court shall dispose of the motion within 30 days. If the court determines the document is sufficiently redacted, the clerk shall reset the document's security level to allow for proper public access.

**I HAVE READ AND UNDERSTAND THE ABOVE.**

_____ Date

_____ Filer's Signature

# Title XXXI TRUSTS AND ESTATES OF DECEDENTS AND PERSONS UNDER DISABILITY

Chapter 473



**473.097. Small estate — distribution of assets without letters, when — affidavit — procedure — fee.** — 1. Distributees of an estate which consists of personal property or real property or both personal and real property have a defeasible right to the personal property, and are entitled to the real property of such estate, as provided in this section, without awaiting the granting of letters testamentary or of administration, if all of the following conditions are met:

(1) The value of the entire estate, less liens, debt, and encumbrances, does not exceed forty thousand dollars;

(2) Thirty days have elapsed since the death of the decedent and no application for letters or for administration or for refusal of letters under section 473.090 is pending or has been granted, or if such refusal has been granted and subsequently revoked;

(3) A bond, in an amount not less than the value of the personal property, approved by the judge or clerk of the probate division is filed by the person making the required affidavit conditioned upon the payment of the debts of the decedent, including any debts to the state of Missouri, the expenses of funeral and burial and compliance with future orders of the court in relation to the estate of the decedent; and further conditioned that any part of the property to which the distributee is not entitled will be delivered to the persons entitled to the property under the law. Liability of the sureties on the bonds provided for in this section terminates unless proceedings against them are instituted within two years after the bond is filed; except that, the court may dispense with the filing of a bond if it finds that the same is not necessary;

(4) A fee, in the amount prescribed in subsection 1 of section 483.580, and when required, the publication cost of the notice to creditors are paid or the proof of payment for such publication is provided to the clerk of the probate division.

2. Notwithstanding the limitation periods set out in section 473.050, the affidavit required by this section may be made by the person designated as personal representative under the will of the decedent, if a will has been presented for probate within the limitation periods specified in section 473.050, otherwise by any distributee entitled to receive property of the decedent any time after thirty days after decedent's death, and shall set forth all of the following:

(1) That the decedent left no will or, if the decedent left a will, that the will was presented for probate within the limitation periods specified in section 473.050;

(2) That all unpaid debts, claims or demands against the decedent or the decedent's estate and all estate taxes due, if any, on the property transfers involved have been or will be paid, except that any liability by the affiant for the payment of unpaid claims or demands shall be limited to the value of the property received;

(3) An itemized description and valuation of property of the decedent. As used in this subdivision, the phrase "property of the decedent" shall not include property which was held by the decedent as a tenant by the entirety or a joint tenant at the time of the decedent's death;

(4) The names and addresses of persons having possession of the property;

(5) The names, addresses and relationship to the decedent of the persons entitled to and who will receive, the specific items of property remaining after payment of claims and debts of the decedent, included in the affidavit;

(6) The facts establishing the right to such specific items of property as prescribed by this section.

The certificate of the clerk shall be annexed to or endorsed on the affidavit and shall show the names and addresses of the persons entitled to the described property under the facts stated in the affidavit and shall recite that the will of decedent has been probated or that no will has been presented to the court and that all estate taxes on the property, if any are due, have been paid.

3. A copy of the affidavit and certificate shall be filed in the office of the clerk of the probate division and copies of the affidavit and certificate shall be furnished by the clerk.

4. The distributees mentioned in this section may establish their right to succeed to the real estate of the decedent by filing a copy of the foregoing affidavit and certificate of the clerk in the office of the recorder of deeds of each county where the real property is situated.

5. When the value of the property listed in the affidavit is more than fifteen thousand dollars, the clerk shall cause to be published in a newspaper of general circulation within the county which qualifies under chapter 493 a notice to creditors of the decedent to file their claims in the court or be forever barred. The notice shall be published once a week for two consecutive weeks. Proof of publication of notice pursuant to this section shall be filed not later than ten days after completion of the publication. The notice shall be in substantially the following form:

To all persons interested in the estate of _____, Decedent:

On the _____ day of _____, 20_____, a small estate affidavit was filed by the distributees for the decedent under section 473.097, RSMo, with the probate division of the circuit court of _____ County, Missouri.

All creditors of the decedent, who died on _____, 20_____, are notified that section 473.444 sets a limitation period that would bar claims one year after the death of the decedent. A creditor may request that this estate be opened for administration.

Receipt of this notice should not be construed by the recipient to indicate that the recipient may possibly have a beneficial interest in the estate. The nature and extent of any person's interest, if any, may possibly be determined from the affidavit on this estate filed in the probate division of the circuit court of _____ County, Missouri.

Date of first publication is _____, 20_____

_____

Clerk of the Probate Division

of the Circuit Court

_____ County, Missouri

6. Upon compliance with the procedure required by this section, the personal property and real estate involved shall not thereafter be taken in execution for any debts or claims against the decedent, but such compliance has the same effect in establishing the right of distributees to succeed to the property as if complete administration was had; but nothing in this section affects the right of secured creditors with respect to such property.

7. The affiant shall collect the property of decedent described in the affidavit. The property of decedent shall be liquidated by the affiant to the extent necessary to pay debts of decedent. If the decedent's property is not sufficient to pay such debts, abatement of the shares of the distributees shall occur in accordance with section 473.620. The affiant shall distribute the remaining property to such persons identified in the affidavit as required in subdivision (5) of subsection 2 of this section who are entitled to receive the specific items of personal property, as described in the affidavit, or to have any evidence of such property transferred to such persons. To the extent necessary to facilitate distribution, the affiant may liquidate all or part of decedent's property.

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(L. 1955 p. 385 § 54, A.L. 1957 p. 829, A.L. 1967 p. 640, A.L. 1971 S.B. 19, A.L. 1973 S.B. 112, A.L. 1978 H.B. 1634, A.L. 1980 S.B. 637, A.L. 1981 S.B. 117, A.L. 1985 S.B. 35, et al., A.L. 1986 S.B. 787, A.L. 1993 S.B. 88, A.L. 1994 S.B. 701, A.L. 1996 S.B. 494, A.L. 2002 H.B. 1537)

**---- end of effective 28 Aug 2002 ----**

**use this link to bookmark section 473.097**

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In accordance with Section **3.090**, the language of statutory sections enacted during a legislative session are updated and available on this website on the effective date of such enacted statutory section.

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# Title XXXI TRUSTS AND ESTATES OF DECEDENTS AND PERSONS UNDER DISABILITY

## Chapter 474

< > • Effective - 23 May 1996, see footnote

**474.010. General rules of descent. —** All property as to which any decedent dies intestate shall descend and be distributed, subject to the payment of claims, as follows:

(1) The surviving spouse shall receive:

(a) The entire intestate estate if there is no surviving issue of the decedent;

(b) The first twenty thousand dollars in value of the intestate estate, plus one-half of the balance of the intestate estate, if there are surviving issue, all of whom are also issue of the surviving spouse;

(c) One-half of the intestate estate if there are surviving issue, one or more of whom are not issue of the surviving spouse;

(2) The part not distributable to the surviving spouse, or the entire intestate property, if there is no surviving spouse, shall descend and be distributed as follows:

(a) To the decedent's children, or their descendants, in equal parts;

(b) If there are no children, or their descendants, then to the decedent's father, mother, brothers and sisters or their descendants in equal parts;

(c) If there are no children, or their descendants, father, mother, brother or sister, or their descendants, then to the grandfathers, grandmothers, uncles and aunts or their descendants in equal parts;

(d) If there are no children or their descendants, father, mother, brother, sister, or their descendants, grandfather, grandmother, uncles, aunts, nor their descendants, then to the great-grandfathers, great-grandmothers, or their descendants, in equal parts; and so on, in other cases without end, passing to the nearest lineal ancestors and their children, or their descendants, in equal parts; provided, however, that collateral relatives, that is, relatives who are neither ancestors nor descendants of the decedent, may not inherit unless they are related to the decedent at least as closely as the ninth degree, the degree of kinship being computed according to the rules of the civil law; that is, by counting upward from the decedent to the nearest common ancestor, and then downward to the relative, the degree of kinship being the sum of these two counts, so that brothers are related in the second degree;

(3) If there is no surviving spouse or kindred of the decedent entitled to inherit, the whole shall go to the kindred of the predeceased spouse who, at the time of the spouse's death, was married to the decedent, in like course as if such predeceased spouse had survived the decedent and then died entitled to the property, and if there is more than one such predeceased spouse, then to go in equal shares to the kindred of each predeceased spouse;

(4) If no person is entitled to inherit as provided in this section the property shall escheat as provided by law.

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(RSMo 1939 § 306, A.L. 1955 p. 385 § 236, A.L. 1980 S.B. 637, A.L. 1996 S.B. 494)

Prior revisions: 1929 § 306; 1919 § 303; 1909 § 332

Effective 5-23-96

CROSS REFERENCES:

Adopted child, right to inherit, 453.090, 453.170

Escheats, generally, Chap. 470

Estates of suicides to descend as in cases of natural death, Const. Art. I § 30

(1958) Devise of undivided one-half interest in realty to testator's son for life and at his death to his children absolutely but if he should die without issue living, then to other son for life and at his death to other son's "heirs at law", was construed according to statute of descent and distribution in effect when second life tenant died rather than statute in effect at execution of will and testator's death and thus widow of second life tenant took one-half of the undivided one-half interest against contention that testator indicated intent that land go to his descendants. Thomas v. Higginbotham (Mo.), 318 S.W.2d 234.

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**---- end of effective 23 May 1996 ----**
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