

Small Estate Affidavit

In Maine, if a person dies with a “small estate,” they do not need to go through the formal probate process. Instead, an affidavit can be signed affirming that the estate meets certain requirements. That affidavit can then be used to conduct the remaining affairs of the estate and collect assets. This process is called the “Collection of personal property by affidavit” and is outlined in the Maine Probate Code (Title 18-C, §3-1201).

In order to use this affidavit, the death must have occurred at least 30 days prior to when the affidavit is signed. The value of the decedent’s estate, less encumbrances and liens, must be less than \$40,000 (indexed to inflation: \$49,700 in 2024). The person signing the affidavit must be entitled as the claiming successor. If a formal probate process has already been initiated with the Probate Court, this affidavit cannot be used.

With this affidavit properly prepared and executed, the claiming successor can receive the proceeds from accounts, pay final bills, and handle any remaining affairs of the estate while avoiding going through the formal probate process.

Note that if real estate needs to be transferred as part of the affairs of the estate, a Small Estate Affidavit cannot be used for this purpose and formal probate will be required.

Does an attorney need to help you with this? Not necessarily, but it’s recommended. An attorney familiar with this process can confirm that all estate assets have been considered, prepare the affidavit, and guide you through the process.

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