

INSTRUCTIONS FOR COMPLETING AFFIDAVIT FOR THE COLLECTION OF PERSONAL PROPERTY OF A DECEDENT

These standard instructions are for informational purposes only and do not constitute legal advice.
If you do not understand this information, please contact an attorney.

This type of Probate Administration is handled exclusively between the person holding the Decedent's property and either the person(s) entitled to the property or person(s) acting on behalf of such person(s).
This process does not require a filing with the Court.

GENERAL INFORMATION

Who May USE JDF 999—Successor or Person Acting on Behalf of Successor(s) (JDF 999, #1)

1. Any successor of the decedent, or any person acting on behalf of one or more successors, can collect assets and distribute them to the persons entitled to receive distributions by presenting an affidavit (JDF 999). All of this can be done without seeking court appointment as personal representative for the estate in certain circumstances.

When to Use JDF 999 (JDF 999, #2, #3, #4, and #5)

2. The affidavit may be used if:
 - a. At least ten days have elapsed since the date of death; **AND**
 - b. The value of the property of the estate, less liens and encumbrances, does not exceed, for the Decedent's year of death (Y.O.D.): Y.O.D. 2015 and 2014, \$64,000; Y.O.D. 2013, \$63,000; Y.O.D. 2012, \$61,000; and Y.O.D. 2011 and 2010, \$60,000; **AND**
 - c. The appointment of a personal representative is not pending nor has been granted by a Court in Colorado or in any other State.
3. The affidavit cannot be used to transfer real estate but may only be used to collect personal property.
4. To use the affidavit to transfer any document owned by the decedent that places a lien against real estate (such as a mortgage or deed of trust), the affidavit must be recorded with the clerk and recorder of the county in which the real estate is located, along with a copy of the decedent's death certificate or other verification of death pursuant to § 15-12-1201(3.5).

Description of Assets and Successor Proportions (JDF 999, #6 and #7)

5. Under # 6 of the affidavit, if all assets are to be divided among the successors in the same manner, then you may state "All Assets" under "Description of Property". If all assets are not to be divided among the successors in the same way then list each asset separately. Separate affidavits may be filled out for one or more assets.
6. Under #7 of the affidavit, if all assets are to be paid to the same person(s) in the same manner, then you may state "All Assets" under "Description of Property". If all assets are not to be paid to the same persons(s) in the same way, then list each asset separately. Separate affidavits may be filled out for one or more assets.

Responsibility of Successor or Person Acting on Behalf of Successor(s) (JDF 999, #8 and #9)

7. Under #6 of the affidavit, a person, whether or not a successor, who collects property on behalf of one or more successors, is acting as an agent for such successors, and is responsible for distributing the property to all successors as specified in #6 of the affidavit.

8. Any person who receives property pursuant to this affidavit is answerable and accountable to any subsequently appointed personal representative of the estate or any other person having a superior right to the estate.

How to Use JDF 999

9. The affidavit is not filed with the Court. Instead, the affidavit must be presented to any person that is indebted to the decedent or having possession of decedent's tangible personal property, including but not limited to funds on deposit at or the contents of safe deposit box at any financial institution, or having an instrument evidencing a debt, obligation, stock, chose in action, or stock brand.

Other Notes on Use of JDF 999

10. For additional information about collecting personal property, please review §15-12-1201, C.R.S. and §15-12-1202, C.R.S.
11. When the affidavit is presented to the person indebted to the decedent or in possession of decedent's personal property, the person shall make payment or deliver the property to the person(s) specified in #7 of the affidavit.
12. If a person or entity holding property of a decedent refuses to honor this Affidavit without reasonable cause, such person or entity shall be liable for all costs, including reasonable attorney fees and costs, incurred by or on behalf of the persons entitled so such property (§15-12-1202(3), C.R.S.)
13. The person or entity paying, delivering, transferring, or issuing personal property pursuant to this affidavit is discharged and released to the same extent as if he/she/it dealt with a personal representative of the Decedent. (§15-12-1202(1), C.R.S.).
14. The Colorado Department of Motor Vehicles ("DMV") will NOT accept JDF 999 but instead requires the use of its own affidavit (DR 2712) to transfer title to motor vehicles, motorcycles, motor homes, etc. owned by the Decedent (see Colorado.gov/revenue/dmv).

COMMON TERMS

- ⊗ Affiant: A person who is making a sworn statement, e.g. the person(s) signing an affidavit.
- ⊗ Estate: All of the property (real or personal) owned by a person on the date of death.
- ⊗ Personal Representative: A person at least 21, resident or non-resident of Colorado, who has been appointed to administer the estate of the decedent.
- ⊗ Successor: Persons other than creditors, who are entitled to property of a decedent under a will or by a statute, e.g. spouse, children. (§15-10-201(51), C.R.S.)
- ⊗ Tangible property: Property which can be possessed physically, such as goods, wares and merchandise.

FEES

No filing fee is required, as this document is not filed with the Court.

COMPLETE AFFIDAVIT

To access the Affidavit form online go to www.courts.state.co.us and click on the "Self Help/Forms" tab. The affidavit is available in PDF or WORD by selecting **Trusts, Estates, Wills - Affidavit for Collection of Personal Property**. You may complete a form online or you may print it and type or print legibly in black ink.

- Complete the affidavit.
- Sign the Affidavit before a Notary Public. Each entity you work with will keep a copy of the Affidavit. You may wish to have your signature notarized on several copies.
- Attach a copy of the death certificate. Some entities may require a certified copy of the death certificate.
- Present the Affidavit and death certificate to the holder of the assets, e.g. bank. You may wish to have a copy of these instructions to present to the bank identifying the authority to file the Affidavit.