

AFFIDAVIT OF SUCCESSION FOR TRANSFER OF REAL PROPERTY TITLE



PINAL COUNTY

**COLLECTING REAL PROPERTY FROM AN ESTATE WITHOUT GOING
TO PROBATE COURT**

INSTRUCTIONS AND FORMS

**Provided as a Public Service
By Amanda Stanford
Clerk of the Superior Court**

AFFIDAVIT OF SUCCESSION FOR TRANSFER OF REAL PROPERTY TITLE

This packet contains court forms about the filing of an affidavit to claim real property; whether or not there was a will. Be sure all of the documents listed below are in this packet.

| Order | Title | # of Pages |
|-------|---|------------|
| 1 | Table of Contents (this page) | 1 |
| 2 | Instructions: Affidavit Instead of Probate – Small Estate | 2 |
| 3 | “Probate Cover Sheet” (*NO COPIES REQUIRED) | 1 |
| 4 | “Affidavit of Succession for Transfer of Real Property Title” | 3 |
| 5 | “Consent and Waiver” | 2 |
| 6 | “Judges / Registrars Statement of Completeness” | 1 |

Once you have completed your documents and they have been signed in front of a Notary Public (If Required) please make a set of copies for all interested parties and provide the Court with a Self-Addressed stamped envelope for the return of any Conformed/Certified copies of the Courts final ruling.

You have permission to use these documents for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

AFFIDAVIT OF SUCCESSION FOR TRANSFER OF REAL PROPERTY TITLE

AFFIDAVIT INSTEAD OF PROBATE -- SMALL ESTATE

1. WHEN CAN YOU USE AN AFFIDAVIT?

You might not have to go to probate court at all, if the estate of the person who died is small enough. Generally, you can file an affidavit to claim personal property without going to probate court if:

A. RIGHT TO SUBMIT AFFIDAVIT. You have **legal standing** or the right to submit an affidavit to persons who have the property of the person who died, or owe money to the person who died, if:

1. You are named in a Will to receive the property of the person who died, and you can prove it;
2. The person who died had no will, but you are entitled to the property under law because of one of the following:
 - You are the spouse of the person who died;
 - You are a living child of the person who died, and there is no living spouse;
 - You are the living parent of the person who died, and there are no living children or spouse;
 - You are a living brother or sister of the person who died, and there are no living children, spouse, or parents.

B. VALUE OF ESTATE. The value of all of the personal property in the decedents estate, wherever located, less liens and encumbrances, **does not exceed \$100,000.00**, and the assessed value of the real property in the decedents estate located in Arizona, less liens and encumbrances against the real property as of the date of the decedents death, **does not exceed \$100,000.00**.

C. ENTITLEMENT TO THE PROPERTY:

PERSONAL PROPERTY: You are the claiming successor to the personal property and are entitled to payment or delivery of the property.

REAL PROPERTY: You are entitled to the real property by reason of the allowance in lieu of homestead (\$18,000), exempt property (\$7,000) or family allowance (\$12,000) by intestate succession as the sole heir or heirs, or by devise under a valid last Will of the decedent. This means any of the following:

- You are **the living spouse** of the person who died or there is no living spouse and you are the living dependent child, **OR**
- The person died without a Will and you are the sole heir, **OR**
- The person died without a Will and the people with equal or greater right than you to the property have all assigned their entire interests in the estate to you, which is proven by the copy of the documents they signed to this effect that you can attach to the affidavit for personal property, **OR**
- The person died and left a valid Will giving the entire estate to you, **OR**
- The person died and left a valid Will and the people with equal or greater right than you to the property have all assigned their entire interests in the estate to you, which are proven by the copy of the documents they signed to this effect that you can attach to the affidavit.

2. WHAT TO DO AFTER YOU HAVE COMPLETED THE AFFIDAVIT: Use only black ink. Do not fold forms, keep forms neat and clean.

- A. To collect personal property**, take the affidavit to the person who has the property or owes the debt. If you are claiming title to a motor vehicle, pay the fee and the motor vehicle division will transfer title to you.
- B. To claim an interest in real property**, take or mail the following documents to the Probate Registrar at the following location:

FLORENCE: **Clerk of the Superior Court**
PO Box 2730
971 Jason Lopez Circle Bldg A
Florence, AZ 85132
(520) 509-3555

- **Probate Cover Sheet**
- **Original Affidavit of Succession for Transfer of Real Property.** If the estate was previously opened, write on the affidavit the old probate case number.
- **Original Will if one exists or a certified copy of the Will from the court of record.**
- **Certified Death Certificate.**
- **Judge' s/Registrar's Statement of Completeness.**
- **Copy of the Closing Statement** if there was a probate in another county other than Pinal County.

IMPORTANT – An Affidavit of Succession to Real Property cannot be filed until 6 months after the decedent death.

FILING FEE: There is a filing fee for filing this Application as well as other charges associated with this case. Inquire with the Clerk's office regarding the filing fee amount. Payment may be made by cash, Visa, MasterCard, debit or money order. If you cannot pay these fees, you may request the fee(s) be deferred or waived. The Clerk of the Superior Court has the necessary forms to ask for a deferral or waiver.

NOTE: With the Application for Deferral, you must provide proof of income (copy of your last 2 most recent paystubs)

If the Probate Registrar determines that your affidavit is complete, the Probate Registrar will sign the Statement of Completeness. You will need to purchase a certified copy of the Affidavit, which you must then record the certified copy of the Affidavit with the county recorder where the real property is located.

Please check with the Clerk's office for the current fee of purchasing a "Certified Copy" of the Affidavit of Succession for Transfer of Real Property. The fee is payable to the Clerk of the Superior Court by cash, money order, Visa or MasterCard.

**Arizona Superior Court, Pinal County
Probate Cover Sheet**

CASE NUMBER PB 2

JUDGE _____

| | |
|--|--|
| <p align="center">PETITIONER'S NAME and ADDRESS</p> <p>Name:</p> <p>Address:</p> <p>City/State/Zip:</p> <p>DOB:(Must Provide)</p> | <p align="center">DECEDENT'S NAME</p> <p>Name:</p> <p>Social Security Number:</p> <p>DOB:</p> |
| <p align="center">PETITIONER'S ATTORNEY NAME and ADDRESS:</p> <p>Name/State Bar #:</p> <p>Address:</p> <p>City/State/Zip:</p> <p>Telephone:</p> | <p align="center">FEES:</p> <p><input type="checkbox"/> PAID <input type="checkbox"/> NOT PAID - REASON:</p> <p><input type="checkbox"/> Political Subdivision/Government Agency</p> <p><input type="checkbox"/> Deferred</p> <p><input type="checkbox"/> Waived</p> |

NATURE OF ACTION

Place an "X" next to the description below which describes the nature of the case.

| | |
|--|--|
| <p>ESTATE & TRUST</p> <p>_____ Ancillary Administration</p> <p>_____ Affidavit of Succession to Realty</p> <p>_____ Trust Administration</p> <p>_____ Formal Probate of Will</p> <p>_____ Informal Probate of Will</p> <p>_____ Supervised Administration</p> <p>_____ Unsupervised Administration</p> <p>_____ Other _____</p> <p align="center">(Specify)</p> | <p>ADULT ADOPTION</p> <p>_____ Adult Adoption</p> |
|--|--|

To the best of my knowledge, all information is true and correct.

Signature of Person Filing Documents

Name of Person Filing: _____
 Street Address: _____
 City, State, Zip Code: _____
 Telephone Number: _____
 Email Address: _____
 ATLAS Number (if applicable) _____
 Representing Self (No Attorney) or Represented by Attorney
 If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
 PINAL COUNTY**

In the Matter of Estate of _____

CASE NUMBER: _____

**AFFIDAVIT OF SUCCESSION FOR TRANSFER
 OF REAL PROPERTY TITLE**

an Adult a Minor, Deceased

JUDGE / REGISTRAR: _____

I _____, being first duly sworn, do upon my oath, hereby state as follows:

1. **INFORMATION ABOUT PERSON WHO DIED**
 (Name of Person who Died) _____ Died on (Date) _____

2. **PLACE OF DEATH. (Check one box)**
 At the time of death, decedent was living in Pinal County in Arizona, **OR**
 At the time of death, decedent was not living in Arizona but was living at (city and state)
 _____, and owned real property located in Pinal County
 in Arizona.

3. **RELATIONSHIP.** This is my relationship to the person who died (explain): _____

Person(s) with equal or greater right: (if none, write none)

4. **DESCRIPTION OF REAL PROPERTY.** The legal description of the real property located in Pinal County Arizona is: _____

5. **INTEREST IN REAL PROPERTY OF PERSON WHO DIED.** The interest in the real property of the person who died is (list how person who died had title to the property or other interest in the property): _____

6. **VALUE OF ESTATE.** The assessed value in the estate of the person who died of all real property located in this state, including any debt secured by a lien on real property, less liens and encumbrances against the real property as of the date of decedent's death, does not exceed \$100,000.00.

7. **SIX MONTH REQUIREMENT.** Six months have elapsed since the decedent's death as shown in a certified copy of the death certificate attached to this affidavit.

8. **PERSONAL REPRESENTATIVE.** An application or petition for appointment of a personal representative is not pending or has not been granted in any jurisdiction or an application has been granted but the personal representative has been discharged or more than one year has elapsed since a closing statement has been filed and the \$100,000 limit on the value of the property has not been exceeded.

9. **FUNERAL EXPENSES.** Funeral expenses, expenses of last illness, and all unsecured debts of the person who died have been paid.

10. **REASON WHY I AM ENTITLED TO THE PROPERTY.** That the person(s) signing the affidavit is/are entitled to the real property because (check the boxes that apply):

- I am decedent's spouse and I am claiming the allowance in lieu of homestead (\$18,000) exempt property (\$7,000) and family allowance (\$12,000). (A.R.S. §14-2401 through §14-2405)
- There is no surviving spouse of the decedent and I am the living dependent or minor child of the person who died. I am claiming the allowance in lieu of homestead (\$18,000) exempt property (\$7,000), and family allowance (reasonable allowance for maintenance of family during administration of estate, generally up to one year). (A.R.S. §14-2401 through §14-2403). All other dependent children of my parent with equal or greater right than I have to the property, who are listed above, have all assigned their entire interests in the estate to me, which is proven by the copy of the document they signed to this effect that I am attaching to this affidavit or they have signed this affidavit indicating their interest in the property.
- I am named in the Will dated _____ of the person who died, the original of which attached to this affidavit, or a certified copy of the Will which has been probated as follows (name court and case number) _____
- The person who died had no Will, but I am entitled to the property under law because (check one box):
 - I am the spouse of the person who died;
 - I am a living child of the person who died, and there is no living spouse;
 - I am the living parent of the person who died, and there are no living children or spouse;
 - I am a living brother or sister of the person who died, and there are no living children, spouse, or parents.
- The person died without a Will and I am the sole heir.

- The person died without a Will and the people with equal or greater right than I have to the property, have all assigned their entire interests in the estate to me, which is proven by the copy of the documents they signed to this effect that I am attaching to this affidavit or have signed this affidavit indicating their interest in the property.
- The person died and left a valid Will giving the entire estate to me.
- The person died and left a valid Will and the people with equal or greater right than I have to the property, who are listed above, have all assigned their entire interests in the estate to me, which is proven by the copy of the documents they signed to this effect that I am attaching to this affidavit or have signed this affidavit indicating their interest in the property.

- 11. OTHER PERSONS.** No other person has a right to the interest of the decedent in the described property.
- 12. TAXES.** No Federal or Arizona Estate Tax is due on the estate of the person who died.
- 13. TRUE STATEMENTS.** All statements in this affidavit are true and material. I acknowledge that any false statement may subject me to penalties relating to perjury.

| | |
|--------------------|------------------|
| Date | Signature |
| State of Arizona) | |
| County of _____) | |

Subscribed and sworn (or affirmed) before me this _____ day of _____, 20____

(Day) (Month) (Year)

by _____

(Name of Signer)

(Affix notary seal here) _____

Notary Public (Notary's Signature)

| | |
|--------------------|------------------|
| Date | Signature |
| State of Arizona) | |
| County of _____) | |

Subscribed and sworn (or affirmed) before me this _____ day of _____, 20____

(Day) (Month) (Year)

by _____

(Name of Signer)

(Affix notary seal here) _____

Notary Public (Notary's Signature)

Date

Signature

State of Arizona)

County of _____)

Subscribed and sworn (or affirmed) before me this _____ day of _____, 20 _____
(Day) (Month) (Year)

by _____
(Name of Signer)

(Affix notary seal here)

Notary Public (Notary's Signature)

Name of Person Filing: _____
Street Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Email Address: _____
ATLAS Number (if applicable) _____
 Representing Self (No Attorney) or Represented by Attorney
If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
PINAL COUNTY**

In the Matter of Estate of

CASE NUMBER: _____

CONSENT WAIVER

an Adult a Minor, Deceased

HONORABLE: _____

READ THIS FORM CAREFULLY. This form contains information that may affect your rights to the real property listed below. If you do not understand this form or the information contained in it, contact an attorney for legal advice.

1. RELATIONSHIP TO DESCENDENT.

I _____, am the _____ of
(Name of person who died) _____

2. WAIVER OF RIGHTS.

I waive my rights to the property described below (use the legal description of the property located in Pinal County):

3. CONSENT.

I consent and assign all interest in the above listed property to,
(Name of petitioner) _____ without bond and waive notice of any
future hearing set as to said property.

Date

Signature

State of Arizona)

County of _____)

Subscribed and sworn (or affirmed) before me this _____ day of _____, 20 _____

(Day) (Month) (Year)

by _____

(Name of Signer)

(Affix notary seal here)

Notary Public (Notary's Signature)

Name of Person Filing: _____
Street Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Email Address: _____
ATLAS Number (if applicable) _____
 Representing Self (No Attorney) or Represented by Attorney
If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
PINAL COUNTY**

In the Matter of Estate of

CASE NUMBER: _____

**JUDGES / REGISTRARS STATEMENT OF
COMPLETENESS**

_____ an Adult a Minor, Deceased

JUDGE / REGISTRAR: _____

A verified Affidavit for Succession of Real Property having been filed this date, pursuant to A.R.S. §14-3971(E), as amended, and attachments thereto are complete, all as provided by A.R.S. §14-3971(E), as amended, 1999;

THEREFORE, a certified copy of said Affidavit, as filed with this Court without attachments, shall be issued for the purpose of having said certified copy recorded at the Office of the County Recorder of Pinal County, Arizona.

DATED this _____ day of _____, 20 _____

Judge of the Superior Court/Registrar