

SMALL ESTATES: DISPOSITION WITHOUT ADMINISTRATION

§735.301 Florida Statutes

Claims against small estates that fall within the following categories may be paid/satisfied simply by completing and then filing this Verified Statement with the required documents and obtaining an Order of the Court. A hearing will not be required in most cases where all requested information and documentation is presented and the Court is satisfied that your claim is valid and compensable.

This is only when, however, a decedent leaves an estate of (a) personal property “exempt” under *FL Statute §732.402*; (b) personal property exempt from creditors under the Florida Constitution; and/or (c) nonexempt personal property less than the sum of preferred funeral expenses and reasonable medical and hospital expenses from the last 60 days of life.

INSTRUCTIONS

You must complete all parts of this Verified Petition and attach all required documents or your claim will be denied.

Requirements for completing the VERIFIED PETITION:

1. **(A)** If there is a Last Will and Testament, attach it. **Note:** If any beneficiary other than you is named in the Will, you must obtain a written, notarized permission Waiver and Consent for each such beneficiary. The Waiver and Consent must state their consent for you to act on their behalf in the disposition of the Decedent’s estate. A Waiver and Consent form is included in this packet for your convenience. Make as many copies of this form as your situation requires.

(B) If there is not a Last Will and Testament you must obtain a written, notarized permission Waiver and Consent from all heirs. The Waiver and Consent must state their consent for you to act on their behalf in the disposition of the Decedent’s estate. (A Waiver and Consent form is included in this packet for your convenience. Make as many copies of this form as your situation requires.)
2. Attach a certified copy of the Death Certificate.
3. Attach a copy of receipt(s) showing payment in full of all funeral expenses and all medical expenses incurred within the last sixty (60) days of the Deceased’s life. Claims made for funeral or final medical expenses will be approved as reimbursements only.
4. Attach payment payable to the Clerk of the Circuit Court for the filing fee of \$235.00.
5. Attach all available documentation supporting the asset(s) claimed. For example, copies of:
 - A policy
 - A bond or other asset held in denominations
 - An account statement
 - A contract
 - Correspondence
 - Receipts and other evidence of the asset’s existence and ownership
 - Bill of sale
6. **BRING PHOTO ID.** The Clerk requires photo ID to witness the Petitioner’s signature.
7. There are limitations on who may claim what property and how much. Personal property claimed by persons other than the surviving spouse, children or heirs shall not exceed the sum paid for preferred funeral and reasonable medical and hospital expenses.

You must bring this completed Verified Petition WITH ALL REQUIREMENTS OUTLINED ABOVE to:

Clerk of the Circuit Court
Attention: Civil
350 E. Marion Ave.
Punta Gorda, FL 33950

5. List all expenses incurred for funeral, burial, cremation, or other disposition of remains.
Continue on separate paper clearly marked #5 and attach if necessary; attach a "paid" receipt for each expense.

Name/Address	Expense Type	Paid Amount	Balance Due

Total Paid Funeral Expenses: _____

6. List all medical and hospital expenses incurred by the deceased within the last sixty (60) days of life.
Continue on separate paper clearly marked #6 if necessary; attach a copy of the explanation of benefit letter(s) (if there was insurance or other source of benefits) OR an itemized account statement from the medical provider(s) for all listed expenses showing each has been paid.

Name/Address	Expense Amount	Date(s) of Service	Paid Amount	Balance Due

Total Paid Medical/Hospital Expenses: _____

7. Assets of the estate that may be claimed without administration must fall into one of the following categories:
- Category (A) is only for a surviving spouse or child(ren) of the deceased; it provides for them the household furniture, furnishings, and appliances from the deceased's usual place of abode up to a total value of \$20,000.00;
 - Category (B) is only for the surviving spouse or heirs [not necessarily limited to child(ren)] for any personal property the collective value of which is less than \$1,000.00; and/or
 - Category (C) is for any interested party and includes personal property up to the total amount of paid "preferred funeral expenses" and paid "reasonable medical and hospital expenses" incurred by the deceased within the last sixty (60) days of life.

List the following information about the deceased/estate. Attach any documentation you may have pertaining to each asset. For example: bill of sale, appraisal, account statement, account or policy numbers, policy, etc.

IF THE CLAIMANT IS A SURVIVING SPOUSE OR NATURAL OR ADOPTED CHILD (INCLUDING ADULT CHILDREN) OF THE DECEASED:

(A)(1) Household furniture, furnishings and appliances kept at the deceased's usual place of abode up to a value of \$20,000.00. Continue on a separate paper (and attach) if necessary.

Description	Location	Value at time of death

Total Household Items Value: _____

(A)(2) Motor vehicles, as defined in *FL Statute §316.003*, up to 15,000 lbs each held in the decedent's name and used primarily as family or personal vehicles (up to two maximum).

Description	Location	Used for

(A)(3) Qualified tuition savings accounts, i.e. "529 accounts" including Florida Pre-paid College Trust Fund advance payment contracts and participation agreements.

Account/Program	Institution	Beneficiary(ies)	Present Value
	Name: _____ Address: _____ Phone: _____	Name: _____ Phone: _____	
	Name: _____ Address: _____ Phone: _____	Name: _____ Phone: _____	
	Name: _____ Address: _____ Phone: _____	Name: _____ Phone: _____	

(A)(4) Teacher/School Administrator benefits pursuant to *FL Statute §112.1915*

Benefit Description	Location	Present Value

A) IF THE CLAIMANT IS A SURVIVING SPOUSE OR HEIR: Personal property exempt from creditors under the *Article X, §4(a)(2)* of the Florida Constitution (up to \$1,000.00).

Asset Description	Location	Present Value

B) ANY INTERESTED PARTY: Other personal property which does not exceed the sum of the amount of paid preferred funeral expenses listed in #5, above (*and shown in the attached receipts or other proof of payment*) and paid reasonable medical and hospital expenses incurred within the last sixty (60) days of life as listed in #6, above (*and shown in the attached receipts or other proof of payment*).

Asset Description	Location	Present Value

Total Other Property: _____

Under penalties of perjury I declare that I have read the foregoing and the facts alleged are true and correct to the best of my knowledge and belief.

Signature of Petitioner

Print Name: _____

Address: _____

City, State, Zip: _____

Telephone: _____

Sworn and subscribed before me this ____ day of _____, 20____, by
_____, who is ____ personally known to me or ____ produced
_____ as identification and who took the oath.

Notary Public

Typed or Printed Name

My Commission expires: _____

(seal)

OR

Sworn and subscribed before me this ____ day of _____, 20____.

ROGER D. EATON
CLERK OF THE CIRCUIT COURT
AND COUNTY COMPTROLLER

By: _____
Deputy Clerk

**IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR CHARLOTTE COUNTY, FLORIDA**

IN RE: Estate of _____

Case No. _____

(Name of Deceased)

WAIVER AND CONSENT FORM

ESTATE OF _____, deceased.

My name is _____, (name of interested party).

I reside at _____.

My relationship with the deceased is _____.

I hereby waive all my rights, title, and interest to the assets of the estate in favor of the estate of _____ (claimant's name) to enable them to pay the expenses and/or receive the proceeds of the estate of the above-named decedent.

Signature (Interested Party)

Signature of Witness

Printed Name (Interested Party)

Printed Name of Witness

Date: _____

Date: _____

Address/Phone of Interested Party: _____

FLORIDA STATUTES:

§735.301 Disposition without administration –

- 1) No administration shall be required or formal proceedings instituted upon the estate of a decedent leaving only personal property exempt under the provisions of §732.402, personal property exempt from the claims of creditors under the Constitution of Florida, and nonexempt personal property the value of which does not exceed the sum of the amount of preferred funeral expenses and reasonable and necessary medical and hospital expenses of the last 60 days of the last illness.
- 2) Upon informal application by affidavit, letter, or otherwise by any interested party, and if the court is satisfied that subsection (1) is applicable, the court, by letter or other writing under the seal of the court, may authorize the payment, transfer, or disposition of the personal property, tangible or intangible, belonging to the decedent to those persons entitled.
- 3) Any person, firm, or corporation paying, delivering, or transferring property under the authorization shall be forever discharged from liability thereon.

§732.402 Exempt property –

- 1) If a decedent was domiciled in this state at the time of death, the surviving spouse, or, if there is no surviving spouse, the children of the decedent shall have the right to a share of the estate of the decedent as provided in this section, to be designated "exempt property."
- 2) Exempt property shall consist of:
 - a) Household furniture, furnishings, and appliances in the decedent's usual place of abode up to a net value of \$20,000 as of the date of death.

- b) Two motor vehicles as defined in §316.003, which do not, individually as to either such motor vehicle, have a gross vehicle weight in excess of 15,000 pounds, held in the decedent's name and regularly used by the decedent or members of the decedent's immediate family as their personal motor vehicles.
 - c) All qualified tuition programs authorized by §529 of the Internal Revenue Code of 1986, as amended, including, but not limited to, the Florida Prepaid College Trust Fund advance payment contracts under §1009.98 and the Florida Prepaid College Trust Fund participation agreements under §1009.981.
 - d) All benefits paid pursuant to §112.1915.
- 3) Exempt property shall be exempt from all claims against the estate except perfected security interests thereon.
 - 4) Exempt property shall be in addition to protected homestead, statutory entitlements, and property passing under the decedent's Will or by intestate succession.
 - 5) Property specifically or demonstratively devised by the decedent's Will to any devisee shall not be included in exempt property. However, persons to whom property has been specifically or demonstratively devised and who would otherwise be entitled to it as exempt property under this section may have the court determine the property to be exempt from claims, except for perfected security interests thereon, after complying with the provisions of subsection (6).
 - 6) Persons entitled to exempt property shall be deemed to have waived their rights under this section unless a petition for determination of exempt property is filed by or on behalf of the persons entitled to the exempt property on or before the later of the date that is 4 months after the date of service of the notice of administration or the date that is 40 days after the date of termination of any proceeding involving the construction, admission to probate, or validity of the Will or involving any other matter affecting any part of the estate subject to this section.
 - 7) Property determined as exempt under this section shall be excluded from the value of the estate before residuary, intestate, or pretermitted or elective shares are determined.

Florida Constitution:

Article X, Section 4 (in relevant part) – Homestead; exemptions

- a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:
 - 2) personal property to the value of one thousand dollars.
- b) These exemptions shall inure to the surviving spouse or heirs of the owner.

Florida Probate Rules:

RULE 5.420 - DISPOSITION OF PERSONAL PROPERTY WITHOUT ADMINISTRATION

- a) Application. An interested person may request a disposition of the decedent's personal property without administration. An application signed by the applicant shall set forth: (1) the description and value of the exempt property; (2) the description and value of the other assets of the decedent; (3) the amount of preferred funeral expenses and reasonable and necessary medical and hospital expenses for the last 60 days of the last illness together with accompanying statements or payment receipts; and (4) each requested payment or distribution of personal property.
- b) Exempt Property. If the decedent's personal property includes exempt property, or property that can be determined to be exempt property, the application must also be signed by all persons entitled to the exempt property or by their representative.
- c) Preparation. On request, the clerk shall assist the applicant in the preparation of the required writing.
- d) Disposition. If the court is satisfied that disposition without administration is appropriate, the court may, without hearing, by letter or other writing authorize the payment, transfer, or disposition of the decedent's personal property to those persons entitled to it.

CHECKLIST FOR REQUIRED DOCUMENTS

Have you attached the following required documents to this Verified Petition?

- 1. The LAST WILL and TESTAMENT (if there is one).
- 2. Receipts/statements/etc. showing all funeral expenses and indicating that all have been paid in full.
- 3. Receipts/statements/etc. showing all medical expenses incurred in the last sixty (60) days of life and indicating that all have been paid.
- 4. Waiver and Consent form for
 - (a) each beneficiary listed in the Will or for
 - (b) each heir if there is no Will.
- 5. Certified copy of the death certificate.
- 6. Payment of \$235.00 made payable to the Clerk of the Circuit Court.
- 7. All documents showing the assets claimed – both existence and ownership. (For example: A policy, an account statement, a bond or other asset held in denominations, a stock certificate, bill of sale, receipt, etc.)
- 8. BRING PHOTO ID WITH YOU!