

64.1-132.2. Payment or delivery of small asset by affidavit.

A. Any person having possession of a small asset shall pay or deliver the small asset to the designated successor of the decedent upon being presented an affidavit made by all of the known successors stating:

1. That the value of the decedent's entire personal probate estate as of the date of the decedent's death, wherever located, does not exceed \$50,000;
2. That at least 60 days have elapsed since the decedent's death;
3. That no application for the appointment of a personal representative is pending or has been granted in any jurisdiction;
4. That the decedent's will, if any, was duly probated;
5. That the claiming successor is entitled to payment or delivery of the small asset, and the basis upon which such entitlement is claimed;
6. The names and addresses of all successors, to the extent known;
7. The name of each successor designated to receive payment or delivery of the small asset on behalf of all successors; and
8. That the designated successor shall have a fiduciary duty to safeguard and promptly pay or deliver the small asset as required by the laws of the Commonwealth.

B. The designated successor may discharge his fiduciary duty to promptly pay or deliver the small asset to a successor who is, or is reasonably believed to be, incapacitated or under a legal disability, by paying or delivering the asset directly to the incapacitated or disabled successor or applying it for such successor's benefit, or by:

1. Paying it to such successor's conservator or, if no conservator exists, guardian;
2. Paying it to such successor's custodian under the Virginia Uniform Transfers to Minors Act ([31-37](#) et seq.) or custodial trustee under the Uniform Custodial Trust Act ([55-34.1](#) et seq.), and, for that purpose, creating a custodianship or custodial trust;
3. If the designated successor does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of such successor to be expended on such successor's behalf; or
4. Managing it as a separate fund on such successor's behalf, subject to such successor's continuing right to withdraw the asset.

****AN IMPORTANT NOTE FROM STAFFORD MEMORIAL PARK****

If you have a loved one that is deceased that owned property at Stafford Memorial Park but did not have a probated will or an qualified executor or administrator then you may be able to use the Virginia Small Estate Affidavit Act. If you have an chosen to handle this matter yourself without the assistance of an attorney the following information is available to assist you with regard to the Virginia Small Estate Affidavit Act to transfer a decedent's cemetery property and or merchandise and or services. The actual Code Section for the act follows this document and outlines who and when this affidavit is appropriate. Additionally a SAMPLE of what your affidavit needs to include follows after the pages with the Virginia Code. This SAMPLE document is not to be used as a print and fill in form it is merely a guide with the requirements that our office must have in order to accept your affidavit. We are not a law office and not able to give out legal advice, this merely serves as a guide so that you include all the necessary information for us to complete the transfer of ownership. Should you choose not to retain the services of an attorney to help you with this matter and submit an affidavit without ALL of the required items we will have to return the affidavit to you. Should this occur, a letter of explanation will accompany the affidavit so that you can make the necessary changes and we will require a resubmission fee of \$25.00. We are not financially able to handle the growing number of improperly submitted affidavits because legal counsel was not sought for the matter. Thank you for your understanding.

C. Any successor may be represented and bound under virtual representation provisions of [55-543.01](#), [55-543.03](#), and [55-543.04](#) with respect to affidavits required and designations of persons to receive payment or delivery of a small asset under this article.

D. A transfer agent of any security, upon the surrender of the certificates, if any, evidencing the security, shall change the registered ownership on the books of a corporation from the decedent to the designated successor upon the presentation of an affidavit as provided in subsection A.

*Note - These documents do not need to be recorded in The Circuit Court.

NOTE: THIS IS A SAMPLE AND IS NOT INTENDED TO BE PRINTED AND USED AS A FORM

VIRGINIA SMALL ESTATE ACT AFFIDAVIT
Va. Code §64.2-600 & 601

Note to the “Person” to whom this Affidavit is delivered: Any person having possession of a small asset shall pay or deliver the small asset to the designated successor of the decedent upon being presented an affidavit made by all of the known successors. If you do not understand or have questions regarding your legal responsibilities relative to this Affidavit, you should consult an attorney at law. “Person” means any individual, corporation, business trust, fiduciary, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

I/WE, the “Successor(s)”

(Full Legal Name(s) of ALL Heirs of the Deceased), after being

first duly sworn, depose and state as follows:

1. That (Deceased Owners Full Legal Name), the “Decedent”, died on the ___ day of _____, 20__

2. That at the time of death, the Decedent’s estate consisted only of a “Small Asset”. *“Small asset” means any indebtedness owed to or any asset belonging or presently distributable to the decedent, other than real property, having a value, on the date of the decedent’s death, of no more than \$50,000. A small asset includes any bank account, savings institution account, credit union account, brokerage account, security, deposit, tax refund, overpayment, item of tangible personal property, or an instrument evidencing a debt, obligation, stock, or chose in action. Upon presentation of this affidavit, the designated successor may endorse, or negotiate any small asset that is a check, draft, or other negotiable instrument that is payable to the decedent or the decedent’s estate.*

A description of the Small Asset appears below:

(Detailed description of lots and or merchandise as listed on the original contract and/or ownership papers)

3. That the value of Decedent’s entire personal probate estate as of the date of the decedent’s death, wherever located, does not exceed \$50,000.00.

4. That at least 60 days have elapsed since the Decedent’s death.

5. That no application for the appointment of a personal representative is pending or has been granted in any jurisdiction.

6. That the Decedent’s will, if any, was duly probated.

7. That the claiming Successor(s) is/are entitled to payment or delivery of the small asset and the basis upon which such entitlement is claimed appears below (check all that apply):
“Successor” means any person, other than a creditor, who is entitled under the decedent’s will or the laws of intestacy to part or all of a small asset.

Surviving Spouse Beneficiary under Will Heir (no Will) Other

If Other, describe relationship to the Decedent: _____

(IF MORE SPACE IS NEEDED, ADD ADDITIONAL LINES TO YOUR AFFIDAVIT)

8. The names and addresses of ALL Successors, to the extent known, are:

9. The name of each successor designated to receive payment or delivery of the small asset and the specific lot or merchandise they are to receive is/are:

“Designated Successor” means one or more successors who are designated pursuant to subdivision A 7 of § 64.2-60 to receive payment or delivery of the small asset on behalf of all successors.

10. That the Designated Successor shall have a fiduciary duty to safeguard and promptly pay or deliver the small asset as required by the laws of the Commonwealth.

WHEREFORE, the undersigned Successor(s) to the Small Asset of the Decedent, make this Affidavit pursuant to Va. Code § 64.2-601.

(ALL SUCCESSORS MUST SIGN BELOW AND EACH SIGNATURE MUST BE NOTARIZED)

(IF MORE SIGNATURE BLANKS ARE NEEDED THEY MAY BE ADDED TO YOUR AFFIDAVIT)

Signature

Signature

(IF MORE NOTARY BLOCKS ARE NEEDED THEY MAY BE ADDED TO YOUR AFFIDAVIT)

CITY/COUNTY of _____, to-wit:

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that _____ and _____ whose name(s) is/are signed to the foregoing Small Estate Affidavit, has/have acknowledged the same before me in my aforesaid jurisdiction. Given under my hand this _____ day of _____, 20____.

NOTARY PUBLIC

My commission expires: _____

(SEAL)