

INSTRUCTIONS FOR AFFIDAVITS OF HEIRSHIP

When someone passes away (also known as the **Decedent**) without a will or if the will is not probated in the state where the property is located and the estate is rather small, an Affidavit of Heirship may be used to determine who to pay based on the laws of descent and distribution for that state. Texas is the only state that we operate in that allows foreign probate to be filed for record in the county where the property is located without opening ancillary proceedings.

- **The form should be completed by someone other than an heir, who is familiar with the family history of the decedent, and who will obtain no benefit from the Estate.** This person may be a family friend, a distant relative, the family attorney or perhaps a religious acquaintance such as the decedent's pastor. Specifically ineligible to fill out the Affidavit are the surviving spouse and the children of the decedent. The disinterested party filling out the form is also known as the **Affiant**.
- **All questions should be answered and current addresses, including the street address, city, state and zip code should be provided for each party listed on the Affidavit.** If the current address of one of the decedent's relatives is not known, put "Unknown" in that blank.
- **N/A or Unknown is not an answer to any question on page one of the Affidavit.** If the Affiant does not understand how to accurately answer any of the questions on the first page, **do not leave it blank.** **Contact Us** on our Owner Relations line at (903) 581-4382, or email us at ownerrelations@vefinc.com.
- Upon completion, the Affiant should sign the Affidavit, have their signature notarized, and then the instrument should be **filed for record** in the county/parish and state in which the interest is located. See below for recording instructions.

Affidavits that are incomplete, incorrect or filled out by an ineligible Affiant will be returned to the sender for correction and cannot be used to transfer the interest to the heirs at law.

RECORDING INSTRUCTIONS:

If the annual income for the owner for the property(ies) that we operate is more than \$300, the Affidavit has to be filed for record in the county/parish and state that the real estate is located in.

- Go to www.courthousedirect.com to obtain the County/Parish Clerk's address. You must request that the clerk return a certified copy of the Affidavit to you. Please contact the clerk concerning the filing fees or any additional information concerning filing.
- When you receive the certified copy of the Affidavit from the clerk, please forward a photocopy of the certified instrument along with a photocopy of the certified death certificate of the decedent to this office. Upon receipt, the interest will be transferred by the laws of descent and distribution for the state where the property is located and Division Orders will be issued to each heir.

If the annual income for the owner for the property(ies) that we operate is less than \$300, the Affidavit does not have to be filed for record for our purposes. However, it is advisable to file the Affidavit for record in the appropriate county/parish as it puts third parties on notice as to the names and addresses of the heirs at law.

- After the Affidavit has been filled out completely and correctly and the Affiant's signature is notarized, please return the Affidavit to our office along with a photocopy of the certified Death Certificate.
- When we receive the Affidavit and Certified Death Certificate, we will make the transfer in accordance with the laws of the state where the property is located. Please note that the law may not necessarily follow the terms of the will.

HELPFUL HINTS

- The legal description in the top right corner is the Section-Township-Range where the property is located and is necessary if the Affidavit is being filed for record, particularly in Oklahoma.
- The County/Parish and State in the top left corner of page one is the County and State where the property is located.
- The “Decedent” is the owner that our company is paying who has passed away.
- The “Affiant” is the person who is filling out the form and swearing to their knowledge of the facts stated.
- Question **#7** regards Federal and State Estate taxes, not income taxes or property taxes. The Estate Tax is a tax on your right to transfer property at your death. It consists of an accounting of everything the decedent owned or had an interest in at the date of death. As of 2014, a filing for federal inheritance taxes is required for estates with combined gross assets and prior taxable gifts exceeding

\$1,500,000 in 2004 – 2005
\$2,000,000 in 2006 – 2008
\$3,500,000 for decedents dying in 2009
\$5,000,000 for decedent's dying in 2010-11
\$5,120,000 in 2012
\$5,250,000 in 2013 and
\$5,340,000 in 2014.

If the decedent’s estate did not meet this criterion, no Federal Estate taxes are due.

- Regarding Question **#8** on page one use the following definition to determine if the property is the decedent’s separate property:

"In a marriage, separate property means that which is owned individually by the husband or by the wife, as opposed to their community property, which is owned by both. There are four main sources of separate property: (1). Acquisition prior to marriage, (2). Devise under a will, (3). Gift, (4). Inheritance."

- Regarding Question **#9** on page one use the following definition to determine if the property that the decedent is being paid on by our company is their homestead:

A homestead is “a person's or family's residence, which comprises the land, house, and outbuildings, and in most states is exempt from forced sale for collection of debt.”