

15-12-1201. Collection of personal property by affidavit.

(1) At any time ten or more days after the date of death of a decedent, any person indebted to the decedent or having possession of any personal property, including but not limited to funds on deposit at, or any contents of a safe deposit box at, any financial institution; tangible personal property; or an instrument evidencing a debt, obligation, stock, chose in action, or stock brand belonging to the decedent shall pay or deliver such property to a person claiming to be a successor of the decedent or acting on behalf of a successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating:

(a) The fair market value of property owned by the decedent and subject to disposition by will or intestate succession at the time of his or her death, wherever that property is located, less liens and encumbrances, does not exceed twice the amount set forth in section 15-11-403, as adjusted by section 15-10-112;

(b) At least ten days have elapsed since the death of the decedent;

(c) No application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and

(d) Each person is entitled to payment or delivery of the property as set forth in such affidavit.

(1.5) An instrument or other property that is payable or deliverable to a decedent or to the estate of a decedent is considered property of the decedent subject to subsection (1) of this section. A successor or person acting on behalf of a successor under subsection (1) of this section may endorse an instrument that is so payable and collect such amount.

(2) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (1) of this section.

(3) The public official having cognizance over the registered title of any personal property of the decedent shall change the registered ownership from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (1) of this section.

(3.5) In the event that an instrument or other evidence of an indebtedness is secured by real property, in order to act on behalf of the holder of the indebtedness secured by a mortgage, deed of trust, or other security document, the person making the affidavit must record, with the clerk and recorder of the county where the real property is located, a copy of the affidavit and a copy of the decedent's death certificate or a verification of death document.

(3.7) Pursuant to section 15-10-111 (1) (a) (I) and (1) (b), a safe deposit box may be entered and its contents shall be delivered upon presentation of an affidavit made pursuant to subsection (1) of this section.

(4) The duties owed to a successor by a person acting on behalf of the successor in the making, presentation, or other use of an affidavit under this section are the same as the duties of an agent to the agent's principal, and the breach of such duty is subject to the same remedies as are available under the law of this state with respect to an agent subject to part 7 of article 14 of this title, including but not limited to the remedies available under part 5 of article 10 of this title. A

successor who makes, presents, or uses such an affidavit where there are two or more successors is a person acting on behalf of each other successor.

Source: **L. 73:** R&RE, p. 1607, 1. **C.R.S. 1963:** 153-3-1201. **L. 75:** (1)(d) amended, p. 600, 40, effective July 1. **L. 77:** IP(1) amended and (3) added, p. 835, 21, effective July 1. **L. 81:** (1)(a) amended, p. 915, 11, effective July 1. **L. 91:** (1)(a) amended, p. 1449, 12, effective July 1. **L. 2002:** (1)(a) amended, p. 652, 7, effective July 1. **L. 2011:** (1)(a) amended, (SB 11-083), ch. 101, p. 306, 11, effective August 10. **L. 2013:** IP(1) amended, (SB 13-077), ch. 190, p. 771, 6, effective August 7. **L. 2014:** IP(1), (1)(a), and (1)(d) amended and (1.5), (3.5), (3.7), and (4) added, (HB 14-1322), ch. 296, p. 1234, 6, effective August 6.

Editor's note: The amendments to this section made after July 1, 1974, are not affected by the provisions of 15-12-1205.

ANNOTATION

Law reviews. For article, "JDF 999 Collection of Personal Property by Affidavit Pursuant to CRS 15-12-1201 and -1202", see 42 Colo. Law. 49 (June 2013).