

**BANKING AFFIDAVIT OF SURVIVING RELATIVE
INTESTATE ESTATE (NO WILL)**

If the deceased person had no will and the only asset is money deposited in a bank or other financial institution, and the amount is less than \$15,000.00, an heir-at-law may be able to claim those assets by completing an affidavit for financial institution without petitioning for Letters of Administration.

The Georgia Law which governs this situation is O.C.G.A. § 7-1-239 and § 7-1-239.1, which states:

§ 7-1-239. Definitions; payment of large deposits of deceased intestate depositors; affidavit for disbursement; form for affidavit.

(a) As used in this Code section, the term:

(1) "Affidavit of the provider" means the form provided for in subsection (e) of this Code section.

(2) "Financial institution" means any federally chartered financial institution or state chartered financial institution, including, but not limited to, those chartered by states other than the State of Georgia whose deposits are federally insured.

(b) Except as provided in subsection (c) of this Code section and in Article 8 of this chapter, whenever any person dies intestate having a deposit of not more than \$15,000.00 in a financial institution, such financial institution, upon receipt of an affidavit, shall be authorized to pay the proceeds of such deposit directly to the following individuals:

(1) To the surviving spouse;

(2) If no surviving spouse, to the children pro rata;

(3) If no children or surviving spouse, to the father and mother pro rata; or

(4) If none of the above, then to the brothers and sisters of the decedent pro rata.

Such affidavit shall state that such individuals qualify as the proper relation to the decedent as specified in this subsection, there is no known will of the decedent, and that there are no other known corresponding claimant or claimants to such deposit.

(c) Except as provided in Article 8 of this chapter, if no application for the deposit is made by any person named in subsection (b) of this Code section within 45 days from the death of the intestate depositor, the financial institution shall be authorized to apply not more than \$15,000.00 of the deposit of such deceased depositor in payment of the funeral expenses and expenses of the last illness of such deceased depositor upon the receipt of itemized statements of such expenses and the affidavit of the providers of such services that the itemized statements are true and correct and have not been paid. The financial institution shall pay such expenses in the order received after the death of the depositor.

(d) Payments pursuant to this Code section shall operate as a complete acquittal and discharge to the financial institution of liability from any suit, claim, or demand of whatever nature by any heir, distributee, creditor of the decedent, or any other person. The financial institution may rely on a properly executed affidavit in disbursing the funds in accordance with this Code section.

§ 7-1-239.1. Payment of checks or instruments payable to deceased intestate persons; affidavit included with application for payment.

(a) Whenever any person dies intestate having possession of or a right to possession of a check or other instrument payable to such deceased person and the amount of the check or instrument does not exceed \$15,000.00, the financial institution on which the check or instrument is drawn shall be authorized to accept and redeem the check or instrument by payment to the following persons:

(1) To the surviving spouse;

(2) If no surviving spouse, to the children pro rata;

(3) If no children or surviving spouse, to the father and mother pro rata; or

(4) If none of the above, then to the brothers and sisters of the decedent pro rata.

(b) If a check or other instrument is payable to more than one person, it may be accepted and redeemed as provided in subsection (a) of this Code section only if it has been endorsed by each payee other than the decedent.

(c) Payments made pursuant to this Code section shall operate as a complete acquittal and discharge to the financial institution of liability from any suit, claim, or demand of whatever nature by any heir, distributee, creditor of the decedent, or any other person. Such payment is authorized to be made as provided in this Code section without the necessity of administration of the estate of the decedent and without the necessity of obtaining an order that no administration is necessary.

(d) As used in this Code section, the term "financial institution" includes any federally chartered financial institution.

(e) Application by any claimant or claimants entitled in this Code section to receive payments of checks or other instruments at a financial institution upon which such instrument is drawn shall include an affidavit by the claimant or claimants which states that they qualify as the proper relation to the decedent as specified in this Code section and that the claimant or claimants know of no other corresponding claimant or claimants to such funds. The financial institution may rely on a properly executed affidavit in disbursing the funds according to this Code section.

STATE OF GEORGIA)
)
COUNTY OF _____)

AFFIDAVIT

RE: *[Name and address of deceased depositor or deceased person having possession of a check or other instrument payable to such deceased person (the "Decedent")]*

TO: *[Name and address of Financial Institution]*

Personally before the undersigned officer authorized to administer oaths appeared Affiant, who, being duly sworn, deposes and states on oath the following:

1.

Affiant has personal knowledge of the facts contained in this Affidavit.

2.

Affiant is the _____ *[state relationship to Decedent]* of the above-named Decedent, who died intestate on the _____ day of _____, 20____.

3.

On information and belief, the Decedent died leaving a deposit of not more than \$15,000 in the above-named Financial Institution or died having possession of or a right to possession of a check or other instrument payable to Decedent not exceeding \$15,000 drawn on the above-named Financial Institution.

4.

The following individual(s), who qualify as the proper relation to the Decedent as specified by O.C.G.A. § 7-1-239 and O.C.G.A. § 7-1-239.1, is/are entitled to receive all or a pro rata share of the proceeds of the aforesaid deposit and/or all or a pro rata share of payment of the aforesaid check or instrument:

[Initial one and provide the name and address of each individual]

_____ Surviving spouse: _____
_____; or

_____ If no surviving spouse, the children of the Decedent: _____

_____ ; or

_____ If no children or surviving spouse, the father and mother of the Decedent: _____

_____ ; or

_____ If none of the above, the brothers and sisters of the Decedent: _____

_____.

5.

There is no known Last Will and Testament of the Decedent and there are no other potential claimants to the aforesaid deposit or funds.

6.

Affiant acknowledges that this Affidavit is made under the provisions of O.C.G.A. § 7-1-239 and O.C.G.A. 7-1-239.1, and that this Affidavit will be relied upon by the above-named Financial Institution for the purpose of making payment to Affiant from the proceeds of the aforesaid deposit or funds.

7.

Payments made pursuant to O.C.G.A. § 7-1-239 and O.C.G.A. § 7-1-239.1 shall operate as a complete acquittal and discharge to the Financial Institution of liability from any suit, claim, or demand of whatever nature by any heir, distributee, creditor of the Decedent, or any other person. Such payment is authorized to be made without the necessity of administration of the Decedent's estate and without the necessity of obtaining an order that no administration is necessary.

Signature of Affiant

Printed Name: _____

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

Notary Public