

Instructions for Petitioners Filing a Petition for Disposition of Personal Property without Administration

NOTE: The decedent must be an Alachua County resident. If not, the case will be transferred to the decedent's county of residence and another filing fee will be required in the transferee county.

To Qualify:

1. The assets (non-exempt assets) must be less than or equal to the qualified expenses. For example, the bank account balance must be equal to or less than the funeral bill. **IF THE ACCOUNT OR ASSET IS MORE THAN THE FUNERAL BILL, IT PROBABLY WILL NOT QUALIFY.** IF THE DECEDENT OWNED REAL PROPERTY, THEN THE ESTATE ALSO CANNOT QUALIFY FOR THIS TYPE OF PROCEEDING.
2. A preferred funeral expense is limited to \$6,000.
3. The decedent (the person who died) must have died less than two years from the date of filing. All claims are barred after two years from the date of death, 733.710, Fla. Stat., which means that no claim could be filed in an estate and there can be no qualifying claims to offset the assets.
4. The expenses must be out-of-pocket expenses. This means that pre-paid funeral plans do not qualify and medical bills that are paid by health insurance also do not qualify.
5. The expenses must be paid by the person seeking to acquire the assets, unless the person who paid the expenses assigns the right to reimbursement to the person filing the petition.
6. If the funeral bill or other qualifying expense is unpaid, the asset will need to be distributed to the unpaid funeral home or medical provider.
7. Cars and household furnishings can only be claimed as exempt property by a surviving spouse or children of the decedent, though they can be distributed as a reimbursement if the estate otherwise qualifies including these assets.
8. There may be a \$1,000 personal property homestead exemption that also can be applied to qualify the estate for this proceeding. This can only be utilized by heirs.

If the estate qualifies, then file:

9. A certified copy of the death certificate that has the cause of death removed.
10. A copy of the funeral bill listed in paragraph 11b, if any, including documentation that shows (a) payment of the bill (if paid) and (b) who paid the bill, if paid. If the bill is not paid, then payment will be made to the funeral home. If the bill was paid by life insurance, then also provide documentation showing the beneficiary of that policy, since that beneficiary would be the person entitled to the reimbursement.
11. A copy of the medical bills listed in Paragraph 11c, if any, including documentation that shows (a) payment of the bill (if paid) and (b) who paid the bill. If the medical bills were paid by health insurance, the insurance payments cannot be used to qualify the estate for this proceeding.
12. For each asset listed on the petition, provide a copy of the bank statement, title, stock certificate or other documentation describing the property and showing its value. If some of the listed property is exempt property, for example household furnishings or appliances, and there is not enough room on the petition to individually list all the items, include a separate list of each item of exempt property and its value.

13. The original will, if there is one. Copies will not suffice.

14. **Complete the Petition for Disposition of Personal Property Without Administration.** *Do not leave any blanks.* If the particular blank does not apply, so state and provide an explanation. If there is none, please also so state. Be sure your phone number appears on the petition so that you can be reached by phone if necessary.

- a. Leave the case number blank, it will be filled in when you file the case
- b. On the blank line underneath the words "In Re: The Estate of" put the decedent's full legal name
- c. On the first line after the title of the document, put your name.
- d. In paragraph 1 put your address; your relationship to the decedent; the decedent's full legal name and any aliases the decedent used; put the name of the city and state where the decedent died; the decedent's date of death; the city and county that was the decedent's permanent residence at the time of death; and the decedent's age. Mark whether the decedent did or did not have a will and if the decedent did have a will, the date it was deposited with the clerk. If there was a will, it must be deposited. Copies of the will cannot be accepted, the original will must be filed.
- e. In paragraph 2, list each beneficiary of the estate. If you are a beneficiary, you must also be included in this list. A full and correct address must be listed for each beneficiary.
- f. In the first box of paragraph 3, list each "exempt" asset or item that you wish the court to distribute, such as automobiles owned by the decedent, household furnishings or appliances in the decedent's residence. If you are not sure, look at section 732.402, Florida Statutes.
- g. In the second box of paragraph 3, list each "non-exempt" asset or item that you wish the court to distribute. This can be bank accounts, stock, cars, checks or any other item that you want to have distributed.
- h. For bank accounts, include the account number, the name of the bank, the type of account and the amount in the account along with a copy of the bank statement.
- i. For cars, include the year, make, model, and VIN and value and a copy of the title.
- j. For stock, include the CUSIP number, the number of shares, the name of the company that issued the shares and the value per share and a copy of the certificate or statement from the company holding the shares.
- k. For checks, include the name of the company issuing the check, the check number, the date of the check and the amount of the check, along with a copy of the check.
- l. For other assets, include all identifying information about the asset the value or estimated value of the asset and copies of documentation about the asset.
- m. In the third box of paragraph 3, list the funeral expense. Funeral expenses are limited to \$6,000 and must be paid by the person asking for distribution. This is the amount you would claim as a creditor of the estate, if a full estate were to be opened. Pre-paid funeral expenses will not qualify. You will need to file a copy of the funeral bill and documentation that the bill was paid, how much was paid, and by whom.
- n. In the fourth box of paragraph 3, list the medical expenses for the last 60 days of the last illness. This amount is the balance after insurance has paid its portion. This is intended to be

the amount that you would claim as a creditor in the estate if a full estate were to be opened.

- o. In the fifth box of paragraph 3, list any other debts of the decedent, if any.
 - p. In the last box of paragraph 3, for each asset, show who that asset should be distributed to. If an asset is to be split, that should be identified. For example, if an account has \$2,000 in it and \$500 is to go to a person who contributed to the funeral bill, with the balance to the petitioner, the account should be listed with the account number next to the each person's name and the dollar amount to go to that person.
 - q. The petition is not required to be notarized. When you sign the petition you are signing under penalties of perjury. You can also choose to sign it before a deputy clerk.
 - r. Put your address and phone number in the place indicated, so that if there are any questions about the petition you can be contacted.
19. If the decedent is survived by a spouse, and the applicant is not the spouse, file a consent from the spouse.
20. File additional consents as be needed from other family members, depending on the facts of the case.