

## **AFFIDAVIT OF HEIRSHIP INSTRUCTIONS**

**– SELLERS AND AGENTS MUST READ THESE INSTRUCTIONS CAREFULLY!**

### **What is an Affidavit of Heirship and how/when is it used?**

- The Affidavit of Heirship is meant to provide an alternative to going to probate court. It is not an option that is available and suitable for every real estate transaction. Occasionally, based on the questionnaire answers, it will be determined that sellers will need to hire an attorney and go through the probate process when an owner of the property is deceased. Filling out the questionnaire as fully as possible will help in the determination of whether an affidavit of heirship is possible for your transaction.
- Do not have anyone sign this questionnaire. The questionnaire should be filled out by one person and signed by no one. An attorney will draft an Affidavit of Heirship based on the answers in the questionnaire, and only that affidavit will require signatures and notarization.
- If the decedent has living descendants, the sections for information about parents and siblings can be skipped.
- The main affiant should be someone inheriting from the person who is deceased. This may be a spouse or an adult child. The two secondary/supporting affiants (section 5) should be friends or non-inheriting relatives (aunts, cousins, etc.) of the person who is deceased. They must have known the person for at least 10 years but preferably longer and be intimately familiar with the family history. They will be asked to swear under oath as to the truth of the family tree. Whenever possible, please choose long-time friends of the family.
- If dates and names for prior marriages are unknown, please write in answers to the best of your ability, such as “around 1999” or, if necessary, state “unknown.” When the underwriter reviews the answers, they will let us know if additional information is needed to proceed.

### **How long will it take the title company to process and approve this?**

- From the time the questionnaire is fully completed and sent to your escrow officer, please allow at least 5-7 business days for the underwriter to have time to review the proposed Affidavit of Heirship that the attorney will draft. At that time, you may be notified that use of an Affidavit of Heirship is approved for your transaction, that more information is needed to complete an approved Affidavit of Heirship, or that your transaction will require you to go to probate court to clear up the interest of the person who is deceased.
- Upon successful approval of use of an Affidavit of Heirship, it may still be some time until the title company can arrange for notarization by the main affiant and the two secondary affiants. The title company will continue to work on other aspects of the transaction during this time. Please wait for your escrow officer to notify you that it is time to arrange notarization.

### **After the Affidavit of Heirship is approved, what else needs to be provided?**

- Everyone who is shown to inherit a percentage of the property under the Affidavit of Heirship will need to provide their social security number to the title company for screening of active liens against them, since they are owners and sellers of the property.
- A death certificate for the person who is deceased must be provided. Due to confidentiality laws, title companies are not permitted to retrieve those death certificates – a family member must acquire the death certificate and provide it to the title company. Death certificates can be acquired by a family member by going to the Vital Records Department for the county in which the deceased person resided at their death. Please do not delay in obtaining the death certificate – this process should be started as soon as you send in your questionnaire.

**AFFIDAVIT OF HEIRSHIP QUESTIONNAIRE**

**PLEASE FILL OUT AND RETURN SO WE CAN PREPARE AN AFFIDAVIT OF HEIRSHIP**

**1. DECEDENT'S INFORMATION:**

Name of Decedent: \_\_\_\_\_

Residence at death (street address): \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Location: \_\_\_\_\_

Date of Death: \_\_\_\_\_ Location: \_\_\_\_\_

Decedent was married \_\_\_\_\_ times and had \_\_\_\_\_ children

**2. AFFIANT'S INFORMATION:**

Name and residence address of Affiant (family member who will sign the Affidavit of Heirship): \_\_\_\_\_  
\_\_\_\_\_

Affiant knew the Decedent from \_\_\_\_\_ (year) to \_\_\_\_\_ (year).

**3. DECEDENT'S MARITAL HISTORY (please use additional page if necessary):**

a. Name of Decedent's 1<sup>st</sup> Spouse: \_\_\_\_\_

Date of Marriage: \_\_\_\_\_ Location: \_\_\_\_\_

Married at time of Decedent's death? \_\_\_\_\_ Divorced? \_\_\_\_\_ Date of Divorce \_\_\_\_\_

If not, date of death: \_\_\_\_\_ Location \_\_\_\_\_

b. Name of Decedent's 2<sup>nd</sup> Spouse: \_\_\_\_\_

Date of Marriage: \_\_\_\_\_ Location: \_\_\_\_\_

Married at time of Decedent's death? \_\_\_\_\_ Divorced? \_\_\_\_\_ Date of Divorce \_\_\_\_\_

If not, date of death: \_\_\_\_\_ Location: \_\_\_\_\_

c. Name of Decedent's 3<sup>rd</sup> Spouse: \_\_\_\_\_

Date of Marriage: \_\_\_\_\_ Location: \_\_\_\_\_

Married at time of Decedent's death? \_\_\_\_\_ Divorced? \_\_\_\_\_ Date of Divorce \_\_\_\_\_

If not, date of death: \_\_\_\_\_ Location: \_\_\_\_\_

**4. FAMILY OF DECEDENT (please use additional page if necessary):**

**Child #1** \_\_\_\_\_ **DOB:** \_\_\_\_\_

Address: \_\_\_\_\_

Name of other parent: \_\_\_\_\_

If child is deceased, provide date of death: \_\_\_\_\_

If child is deceased, please provide the following information for each of their children:

**Name of 1<sup>st</sup> child** \_\_\_\_\_  
Date and place of birth: \_\_\_\_\_  
Name and address of other parent: \_\_\_\_\_  
\_\_\_\_\_  
Current Address: \_\_\_\_\_  
If deceased, provide date of death: \_\_\_\_\_

**Name of 2<sup>nd</sup> child** \_\_\_\_\_  
Date and place of birth: \_\_\_\_\_  
Name and address of other parent: \_\_\_\_\_  
\_\_\_\_\_  
Current Address: \_\_\_\_\_  
If deceased, provide date of death: \_\_\_\_\_

**Name of 3<sup>rd</sup> child** \_\_\_\_\_  
Date and place of birth: \_\_\_\_\_  
Name and address of other parent: \_\_\_\_\_  
\_\_\_\_\_  
Current Address: \_\_\_\_\_  
If deceased, provide date of death: \_\_\_\_\_

**Child #2** \_\_\_\_\_ **DOB:** \_\_\_\_\_  
Address: \_\_\_\_\_  
Name of other parent: \_\_\_\_\_  
If child is deceased, provide date of death: \_\_\_\_\_

If child is deceased, please provide the following information for each of their children:

**Name of 1<sup>st</sup> child** \_\_\_\_\_  
Date and place of birth: \_\_\_\_\_  
Name and address of other parent: \_\_\_\_\_  
\_\_\_\_\_  
Current Address: \_\_\_\_\_  
If deceased, provide date of death: \_\_\_\_\_

**Name of 2<sup>nd</sup> child** \_\_\_\_\_  
Date and place of birth: \_\_\_\_\_  
Name and address of other parent: \_\_\_\_\_  
\_\_\_\_\_

Current Address: \_\_\_\_\_  
If deceased, provide date of death: \_\_\_\_\_

**Name of 3rd child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

**Child #3** \_\_\_\_\_ **DOB:** \_\_\_\_\_

Address: \_\_\_\_\_

Name of other parent: \_\_\_\_\_

If child is deceased, provide date of death: \_\_\_\_\_

If child is deceased, please provide the following information for each of their children:

**Name of 1<sup>st</sup> child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

**Name of 2nd child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

**Name of 3rd child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

**Child #4** \_\_\_\_\_ **DOB:** \_\_\_\_\_

Address: \_\_\_\_\_

Name of other parent: \_\_\_\_\_

If child is deceased, provide date of death: \_\_\_\_\_

If child is deceased, please provide the following information for each of their children:

**Name of 1<sup>st</sup> child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

\_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

**Name of 2<sup>nd</sup> child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

\_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

**Name of 3<sup>rd</sup> child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

\_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

**Child #5** \_\_\_\_\_ **DOB:** \_\_\_\_\_

Address: \_\_\_\_\_

Name of other parent: \_\_\_\_\_

If child is deceased, provide date of death: \_\_\_\_\_

If child is deceased, please provide the following information for each of their children:

**Name of 1<sup>st</sup> child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

\_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

**Name of 2nd child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

**Name of 3rd child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

**Did decedent adopt, raise, or take into their home any other child?** If so, please list them here: \_\_\_\_\_

**IF THERE ARE NO SURVIVING DESCENDANTS, PLEASE PROVIDE THE FOLLOWING:**

Name of Mother of Decedent: \_\_\_\_\_ DOB: \_\_\_\_\_ DOD: \_\_\_\_\_

Current address is: \_\_\_\_\_

Name of Father of Decedent: \_\_\_\_\_ DOB: \_\_\_\_\_ DOD: \_\_\_\_\_

Current address is: \_\_\_\_\_

**IF THERE ARE NO SURVIVING DESCENDANTS AND ONE OR BOTH PARENTS DID NOT SURVIVE THE DECEDENT, PLEASE PROVIDE THE FOLLOWING:**

Name of Sibling: \_\_\_\_\_ DOB: \_\_\_\_\_ DOD \_\_\_\_\_

Address: \_\_\_\_\_

If sibling is deceased, please provide following information for each of their children:

**Name of 1<sup>st</sup> child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

Name of Sibling: \_\_\_\_\_ DOB: \_\_\_\_\_ DOD \_\_\_\_\_

Address: \_\_\_\_\_

If sibling is deceased, please provide the following information for each of their children:

**Name of 1<sup>st</sup> child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

Name of Sibling: \_\_\_\_\_ DOB: \_\_\_\_\_ DOD \_\_\_\_\_

Address: \_\_\_\_\_

If sibling is deceased, please provide the following information for each of their children:

**Name of 1<sup>st</sup> child** \_\_\_\_\_

Date and place of birth: \_\_\_\_\_

Name and address of other parent: \_\_\_\_\_

Current Address: \_\_\_\_\_

If deceased, provide date of death: \_\_\_\_\_

**5. NAME, COUNTY AND STATE OF PERSONS SIGNING SUPPORTING AFFIDAVITS:**

This needs to be two disinterested parties stating UNDER OATH that they are aware of all of the facts provided herein. These two affiants are in addition to the primary affiant in Section 2.

**Affiant #1:** \_\_\_\_\_

Length of time affiant knew decedent: \_\_\_\_\_

How affiant knew decedent (friend, neighbor, etc.): \_\_\_\_\_

Current address: \_\_\_\_\_

**Affiant #2:** \_\_\_\_\_

Length of time affiant knew decedent: \_\_\_\_\_

How affiant knew decedent (friend, neighbor, etc.): \_\_\_\_\_

Current address: \_\_\_\_\_

**6. WILL/PROBATE/DEBT/TAXES INFORMATION:**

Did Decedent Leave a Will? \_\_\_\_\_, If so, was it probated? \_\_\_\_\_

**IF DECEDENT DID LEAVE A WILL, A COPY OF THE WILL MUST BE PROVIDED SO THAT IT CAN BE ATTACHED TO THE AFFIDAVIT BEFORE RECORDING. CLOSING OFFICE MUST SUBMIT COPY ALONG WITH THIS COMPLETED FORM TO THE LAW FIRM PREPARING THE AFFIDAVIT OF HEIRSHIP.**

Have all debts of the funeral and last illness been paid? \_\_\_\_\_

Are there any inheritance or federal estate taxes owed? \_\_\_\_\_

**7. PROPERTY INFORMATION:**

Street Address of the property being sold: \_\_\_\_\_

\_\_\_\_\_

**8. Was decedent receiving Medicaid benefits for health care services care services prior to his or her death? \_\_\_ Yes \_\_\_ No \_\_\_ Don't know**