

**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 \$10,000, 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, which states:

§ 7-1-239. Payment of deposit of deceased depositor

(a) Except as provided in subsection (b) of this Code section and in Article 8 of this chapter, whenever any person dies intestate having a deposit of not more than \$10,000.00 in a financial institution, such financial institution shall be authorized to pay the proceeds of such deposit directly 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) Except as provided in Article 8 of this chapter, if no application for the deposit is made by any person named in subsection (a) of this Code section within 90 days from the death of the intestate depositor, the financial institution shall be authorized to apply not more than \$10,000.00 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.

(c) Payments pursuant to subsections (a) and (b) of 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 or without the necessity of obtaining an order that no administration is necessary.

(d) In any case in which a deceased depositor has more than \$10,000.00 on deposit in a financial institution, such financial institution shall be authorized to pay any amount up to \$10,000.00 to any of the persons authorized by this Code section to receive said deposit. The payment shall only act as a full and final acquittance of liability up to the amount

paid by the financial institution and shall not act as a full and final acquittance to the financial institution of all liability.

(e) Notwithstanding any other provisions of law to the contrary, when any person dies intestate as a resident of this state and any person is left in possession of moneys belonging to the decedent, which moneys do not exceed \$10,000.00, such person shall deposit such moneys into a savings account in the name of the decedent in a financial institution located in the area of the decedent's residence. Such account shall be managed in accordance with the signature contract in effect at the financial institution at the time the account is opened. Any financial institution receiving such deposits is authorized to pay the proceeds in accordance with subsections (a), (b), (c), and (d) of this Code section.

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

(g) Application by any claimant or claimants entitled in this Code section to receive deposits at a financial institution 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 deposit. The financial institution may rely on a properly executed affidavit in disbursing the funds according to this Code section.

AFFIDAVIT

State of Georgia

County of _____

Re: [Name and address of deceased depositor]

[Name and address of financial institution]

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

1.

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

2.

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

3.

Said depositor died leaving a deposit of not more than \$10,000 in the above-named financial institution, and Affiant, who qualifies as the proper relation to the decedent as specified by O.C.G.A. § 7-1-239 , is entitled to have the proceeds of the aforesaid deposit paid directly to him.

4.

Affiant acknowledges that this Affidavit is made under the provisions of O.C.G.A. § 7-1-239 , and that this Affidavit will be relied upon by the above-named financial institution for the purpose of making payment to Affiant from deposits on hand of the above-named depositor.

Affiant

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

Notary Public