

TRANSFER BY AFFIDAVIT

☐ Amended (if Transfer by Affidavit form previously recorded,
amending recorded Document No. _____)

§867.03, Wis. Stats. – Estates with property worth \$50,000 or less (gross value)

Estate of _____ (the
"Decedent").

UNDER OATH, I STATE:

1. The Decedent was born on _____ and died on _____
domiciled in the County of _____ State of
_____ and with a mailing address of
_____.

2. I am signing this Transfer by Affidavit in the following capacity:
☐ an heir having the following relationship with the Decedent:

☐ trustee of a revocable trust created by the Decedent.
☐ a person who was the guardian of the Decedent at the time of the Decedent's
death.

☐ the person identified in the Decedent's Will to act as personal representative.
NOTE: Per §867.03(1h), Wis. Stats., if you are signing as nominated personal
representative in the Decedent's Will, then this Affidavit may not be used to
transfer the Decedent's interest in real estate.

3. The total gross value of the Decedent's property subject to administration in
Wisconsin on the date of the Decedent's death was \$_____.

NOTE: All property of the Decedent subject to administration must be included
in the total gross value and on this Affidavit, which may not exceed \$50,000 gross
value.

Register of Deeds recording area

Name and return address

Parcel No(s): _____

4. If the Transfer by Affidavit is being used to transfer the Decedent's interest in real estate, the heirs of the Decedent are identified on the
Affidavit of Heirship attached.

5. I ask that the following property of the Decedent be transferred to me pursuant to §867.03(1g), Wis. Stats:

DESCRIPTION OF ALL PROPERTY TO BE TRANSFERRED

If real estate, list legal description and tax parcel number. If personal property (including digital property as defined under §711.03(10), Wis.
Stats.), specifically describe property including name of financial institutions and account type.

☐ See attached for additional property

6. **Real Estate – Requirement to notify heirs - 30 days:** If this Affidavit proposes to transfer the Decedent's interest in real estate, then pursuant to §867.03(1p), Wis. Stats., I understand that I must provide a copy of this Affidavit, along with notice of my intention to record this Affidavit with the register of deeds office for each county in which the Decedent had an interest in real estate, to the Decedent's heirs at least 30 days before recording.

☐ I hereby confirm that I provided a copy of this Affidavit to the Decedent's heirs at least 30 days prior to recording or have obtained waivers from the heirs. The required Affidavit of Service OR Waiver of Notice form is attached hereto.

7. **Decedent's Spouse(s):** If the Decedent was ever married, complete the following (if more than one spouse, check here and provide same information for additional spouses(s) ☐ see attached):

Name of Spouse(s): _____ (☐ living or ☐ deceased)

☐ Married to Decedent ☐ Divorced from Decedent at time of Decedent's death

☐ The affiant lacks information to complete this section.

8. **Government Services – requirement to notify State of Wisconsin:** I understand that §867.03(1m), Wis. Stats. states that if the Decedent or the Decedent's spouse(s) ever received the following services, then I must notify the Estate Recovery Program for the State of Wisconsin prior to transferring the Decedent's property. I hereby certify that the Decedent and/or the Decedent's spouse(s) (either alive or deceased) received the following services:

| Service | Decedent Received the Service | Decedent's Spouse Received the Service | I Don't Know |
|---|-------------------------------|--|--------------|
| Medical Assistance/Medicaid | | | |
| Family Care and/or Partnership benefits (through Managed Care Organization) | | | |
| Community Options Program benefits | | | |
| Wisconsin Chronic Disease Program | | | |
| Patient or inmate of a State of Wisconsin or Wisconsin County hospital or institution or responsible for any person owing an obligation to the State of Wisconsin or County in the State of Wisconsin | | | |

☐ If the Decedent or the Decedent's spouse(s) received any of the services identified above, I hereby confirm that I provided a copy of this Affidavit to the Department of Health Services Estate Recovery Program and have attached the required proof of certified mail delivery showing the delivery date.

9. I understand that by accepting the Decedent's property under this Affidavit, I assume a duty to apply the property transferred for the payment of obligations according to priorities established under §859.25, Wis. Stats., and to distribute any balance to those persons designated in the appropriate governing instrument, as defined in §854.01, Wis. Stats., or if there is no governing instrument, according to the rules of intestate succession under Chapter 852, Wis. Stats.

DECLARATION: To the best of my knowledge and belief, I declare that this document is true, accurate, complete, and in conformity with the provisions and limitations of the Wisconsin Statutes.

STATE OF _____

COUNTY OF _____

Subscribed and sworn to before me on _____

Notary Public/Court

Name printed or typed

My commission/term expires: _____

This document was drafted by: _____

Signature

Name printed or typed

Address

AFFIDAVIT OF HEIRSHIP

Addendum to Transfer by Affidavit

Estate of _____ (the "Decedent")

UNDER OATH, I ANSWER THE FOLLOWING QUESTIONS:

1. What is your name, mailing address, and relationship to the Decedent?

| Name | Mailing Address | Relationship |
|------|-----------------|--------------|
| | | |

2. Was the Decedent survived by a spouse or domestic partner? ☐ Yes ☐ No

If YES, give name: _____

3. Did the Decedent have any children (living or deceased; natural or adopted)? ☐ Yes ☐ No

If YES, list all names and if deceased indicate date of death. ☐ See attached

| Name of Decedent's children | If deceased, date of death |
|-----------------------------|----------------------------|
| | |

For each deceased child listed above, list his or her name and the names of his or her children (living or deceased; natural or adopted). If any of his or her children are deceased, indicate the date of death of that child and the names of his or her descendants (living or deceased; natural or adopted). ☐ See attached

| Name of Deceased Child | Name of Deceased Child's Children | Date of Death |
|------------------------|-----------------------------------|---------------|
| | | |

4. If there is a surviving spouse or domestic partner, are all of the decedent's children listed in Section 3 above also the children of the surviving spouse or domestic partner? ☐ Yes ☐ No

If NO, give details: _____¹

5. If no surviving children, spouse, or domestic partner, did the Decedent leave surviving parents? ☐ Yes ☐ No ☐ NA

If YES, list names: _____

¹ INSTRUCTIONS: If there are LIVING persons listed in answers to Questions 2, 3, and 4, then skip to Question 8. If no such LIVING persons, continue with Question 5.

6. If no surviving parent, did the Decedent have brothers or sisters (living or deceased; whole blood, half blood, adopted)?
☐ Yes ☐ No ☐ NA

If YES, list all names and if deceased indicate date of death. ☐ See attached

| Name of Decedent's Brothers or Sisters | If deceased, date of death |
|--|----------------------------|
| | |

For each deceased brother or sister listed above, list his or her name and the names of his or her children (living or deceased; natural or adopted). If any of his or her children are deceased, indicate the date of death of that child and the names of his or her descendants (living or deceased; natural or adopted). ☐ See attached

| Name of Deceased Brother or Sister | Name of Deceased Brother's or Sister's Children | Date of Death |
|------------------------------------|---|---------------|
| | | |

7. If no surviving brothers or sisters, then list the names of maternal (mother) and paternal (father) grandparents and the descendants of any deceased grandparent and whether the person is living or deceased. Please continue listing children of deceased persons until a living person is named.

☐ See attached

| Maternal (mother) | Paternal (father) |
|--------------------|--------------------|
| Grandfather: _____ | Grandfather: _____ |
| Grandmother: _____ | Grandmother: _____ |
| Descendants: | Descendants: |

8. Did any of the persons named in Questions 2-7, inclusive, die within 120 hours (5 days) after the death of the Decedent? ☐ Yes ☐ No

If YES, list name, date of death, and descendant(s).

| Name | Date of Death | Descendant(s) |
|------|---------------|---------------|
| | | |

STATE OF _____

COUNTY OF _____

Subscribed and sworn to before me on _____

Notary Public/Court

Name printed or typed

My commission/term expires: _____

Signature

Name printed or typed

Address

Affidavit of Service OR Waiver of Notice

Addendum to Transfer by Affidavit

Estate of _____ (the "Decedent")

AFFIDAVIT OF SERVICE

I, [Name] _____, of [City] _____, State of _____, being sworn, state that on [Date] _____ I provided a copy of the Transfer by Affidavit form for the Decedent to the following named persons at the mailing address as listed:

☐ See attached for additional heirs

| NAME OF HEIR | MAILING ADDRESS | TYPE OF SERVICE* |
|--------------|-----------------|------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

* **TYPE OF SERVICE:** Refer to §867.03, Wis. Stats., for proper manner of service. Type of service may include personal service or certified mail return receipt requested.

STATE OF _____

COUNTY OF _____

Signature _____

Subscribed and sworn to before me on _____

Name printed or typed _____

Notary Public/Court _____

Name printed or typed _____

Address _____

My commission/term expires: _____

WAIVER OF NOTICE

I am an heir of the Decedent. I am not a minor, have not been found to be incompetent, and do not have a guardian. I have received a copy of the Transfer by Affidavit form for the Decedent and I hereby consent to its immediate recording in the office of the register of deeds office in each county in which the Decedent had an interest in real estate.

☐ See attached for additional heirs

| NAME OF HEIR (PRINTED OR TYPED) | SIGNATURE | DATE |
|------------------------------------|-----------|------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

INSTRUCTIONS FOR COMPLETING WISCONSIN'S TRANSFER BY AFFIDAVIT (\$50,000 gross and under)

WHEN YOU MAY USE THE TRANSFER BY AFFIDAVIT ("Affidavit"):

Pursuant to §867.03, Wis. Stats., when a deceased person ("decedent") dies with Wisconsin property subject to probate administration which does not exceed \$50,000 in gross value, a person entitled to sign the Affidavit (as set forth below) (the "Affiant") may collect, receive, and have the decedent's interest in property transferred to the Affiant. **By accepting the decedent's property, the Affiant assumes a duty to pay the decedent's debts and distribute any balance to the decedent's beneficiaries designated in the appropriate governing instrument (such as a will) or, if the decedent did not have a will or other governing instrument, to the decedent's heirs (as set forth below).**

WHAT PROPERTY MAY BE TRANSFERRED USING THE TRANSFER BY AFFIDAVIT:

All property which would otherwise be subject to a probate administration. This includes real property (an interest in real estate) and non-real property. Examples of non-real property which may be transferred using the Affidavit include, but are not limited to, interests in the following: a bank account, a certificated or uncertificated security, promissory note, digital property as defined in §711.03(10), Wis. Stats., and property that would otherwise be distributed to the decedent's estate via beneficiary designation.

WHO MAY BE AN AFFIANT AND SIGN THE AFFIDAVIT:

If the Affidavit is being used to transfer the decedent's interest in real estate or evidence of interest, obligation to, or right of the decedent in real estate (i.e. a mortgagee's interest or lien), then the Affiant must be: (i) an heir of the decedent (as set forth below), (ii) a trustee of a revocable trust created by the decedent, or (iii) a person who was guardian of the decedent at the time of the decedent's death.

If the Affidavit is being used to transfer the decedent's interest in only non-real property, then the Affiant must be: (i) an heir of the decedent (as set forth below), (ii) a trustee of a revocable trust created by the decedent, (iii) a person who was guardian of the decedent at the time of the decedent's death, or (iv) a person named in the decedent's will to act as personal representative.

WHO IS AN HEIR:

Section 852.01, Wis. Stats. defines who is an heir. See the Affidavit of Heirship form included as an addendum to the Affidavit form for additional help in determining a decedent's heir(s).

NOTICE TO THE STATE OF WISCONSIN:

If the decedent and/or the decedent's spouse ever received any of the services specified below, then the Affiant must send a copy of the Affidavit by certified mail, return receipt requested, to the Estate Recovery Program for the State of Wisconsin, Department of Health Services, along with proof of the certified mail delivery showing the delivery date, prior to furnishing the Affidavit to any party holding property of the decedent included in the Affidavit or recording the Affidavit with the Register of Deeds Office in any county in which an interest in real estate or a lien on real estate included in the Affidavit is located. The services are:

- Medical Assistance/Medicaid
- Family Care and/or Partnership benefits (through a Managed Care Organization)
- Community Options Program
- Wisconsin Chronic Disease Program
- Patient or inmate of a state or county hospital or institution, or responsible for any person owing an obligation to the state or county

Address for Estate Recovery Program:
Wisconsin Department of Health Services
Estate Recovery Program
P.O. Box 309
Madison, WI 53701-0309

NOTICE TO DECEDENT'S HEIRS (30-DAY NOTICE FOR REAL ESTATE):

If the Affiant is transferring the decedent's interest in real estate, or a lien on real estate, then the Affiant must first provide the following to the decedent's heirs at least 30 days before recording the Affidavit with the Register of Deeds Office in each county in which the subject real estate is located: (i) a copy of the Affidavit (including the Affidavit of Heirship and Affidavit of Service or Waiver of Notice forms), and (ii) notice that the Affiant intends to record the Affidavit with the Register of Deeds Office in each county in which the subject real estate is located. Notice to the decedent's heirs must be given by either: (i) certified mail, return receipt requested or (ii) personal service (see §867.03(1p), Wis. Stats.).

WHAT TO DO WITH THE AFFIDAVIT:

If the Affiant is not transferring the decedent's interest in real estate, or a lien on real estate, then, after complying with any required notice to the State of Wisconsin, Department of Health Services Estate Recovery Program, the Affiant may furnish the Affidavit to any party holding property of the decedent included in the Affidavit to implement the transfer(s) to the Affiant. **NOTE:** If the Affiant is a person named in the decedent's will to act as personal representative, the holder of the decedent's property may not transfer the property included in the Affidavit until 30 days after the day on which the Affidavit is received. If, within such 30-day period, the holder of the decedent's property receives an Affidavit for the same decedent from another person, then the holder is prohibited from transferring the decedent's property unless ordered to do so by a court (see §867.03(1j), Wis. Stats.).

If the Affiant is transferring the decedent's interest in real estate, or a lien on real estate, then 30 days after the Affiant provides the required notice to the decedent's heirs (or earlier if all of the heirs waive notice), and after complying with any required notice to the State of Wisconsin, Department of Health Services Estate Recovery Program, the Affiant may record the Affidavit with the Register of Deeds Office in each county in which the subject real estate is located. The recording of the Affidavit transfers the decedent's interest in the real estate (including lien rights) to the Affiant. **NOTE:** the Register of Deeds may require additional documentation, including a completed Wisconsin Electronic Real Estate Transfer Receipt (see §867.03(1p), Wis. Stats.).

OBLIGATIONS OF AFFIANT:

By signing the Affidavit, the Affiant is certifying that the contents of the Affidavit are true and correct, that the Affiant will pay the debts of the decedent according to Wisconsin law, and that the Affiant will distribute any balance to those persons designated in the appropriate governing instrument (such as a will), or if none, to the decedent's heirs.

MORE QUESTIONS?

The transfer by affidavit form and related instructions are not a substitute for legal advice. Please contact your attorney if you have any questions about how to complete this form.

REMINDER: If transferring an interest in real estate, do you have all attachments to submit to the Register of Deeds?

- ☐ Affidavit of Heirship
- ☐ Affidavit of Service OR Waiver of Notice
- ☐ If required, proof of Certified Mail Delivery to Estate Recovery Program showing the delivery date
- ☐ Legal Description of the real estate to be transferred
- ☐ Completed Wisconsin Electronic Real Estate Transfer Receipt

This form is maintained by the Real Property, Probate, and Trust Section of the State Bar of Wisconsin.