

## DISPOSITION OF PERSONAL PROPERTY WITHOUT ADMINISTRATION

This type of proceeding is used to request release of assets of the deceased to the person who paid the final expenses, such as funeral or medical bills, for the last 60 days. Under Section 735.301, Florida Statutes, the estate must consist of personal property exempt from claim of creditors (see Section 732.402, Florida Statutes), and non-exempt personal property that does not exceed the amount of the funeral expenses. There can not be any real estate in the estate.

Basically, this type of administration is a reimbursement to the person who paid the funeral expenses. You can not profit from this type of estate. For example, if the funeral bill was \$2,000 and the petitioner paid no medical bills, the amount of the non-exempt property that could be disbursed could not exceed \$2,000. If funeral expenses have not been paid, the money should be paid directly to the funeral home.

In addition to the Petition for Disposition of Personal Property Without Administration, you must also provide the following:

- Certified copy of the Death Certificate
- The funeral bill showing who paid the it. The person who paid it should be the same person as the petitioner.
- Medical bills for the last 60 days (if any). These must be listed on the affidavit as paid or unpaid, or covered by insurance.
- Specific information on accounts that are to be distributed, such as account numbers, name and address of fiduciary, and the amount in the account.

If more than one person paid the funeral expenses, the others may sign a waiver for one to receive the money.

If the decedent has a will, it must be deposited with the Clerk.

After the petition has been filed, the Judge will review the information and an order will be issued with directions to distribute the property to the proper persons. A certified copy will be provided to the petitioner.

Florida Statutes 735.301 and 732.402 follow.

### **735.301 Disposition without administration.--**

- (1) No administration shall be required or formal proceedings instituted upon the estate of a decedent leaving only personal property exempt under the provisions of s. [732.402](#), personal property exempt from the claims of creditors under the Constitution of Florida, and nonexempt personal property **the value of which does not exceed the sum of the amount of preferred funeral expenses** and reasonable and necessary medical and hospital expenses of the last 60 days of the last illness.

(2) Upon informal application by affidavit, letter, or otherwise by any interested party, and if the court is satisfied that subsection (1) is applicable, the court, by letter or other writing under the seal of the court, may authorize the payment, transfer, or disposition of the personal property, tangible or intangible, belonging to the decedent to those persons entitled.

(3) Any person, firm, or corporation paying, delivering, or transferring property under the authorization shall be forever discharged from any liability thereon.

**<sup>1</sup>732.402 Exempt property.--**

(1) If a decedent was domiciled in this state at the time of death, the surviving spouse, or, if there is no surviving spouse, the children of the decedent shall have the right to a share of the estate of the decedent as provided in this section, to be designated "exempt property."

(2) Exempt property shall consist of:

(a) Household furniture, furnishings, and appliances in the decedent's usual place of abode up to a net value of **\$10,000 as of the date of death**.

(b) All automobiles held in the decedent's name and regularly used by the decedent or members of the decedent's immediate family as their personal automobiles.

(c) Florida Prepaid College Program contracts purchased and Florida College Savings agreements established under part IV of chapter 1009.

(d) All benefits paid pursuant to s. 112.1915.

(3) Exempt property shall be exempt from all claims against the estate except perfected security interests thereon.

(4) Exempt property shall be in addition to protected homestead, statutory entitlements, and property passing under the decedent's will or by intestate succession.

(5) Property specifically or demonstratively devised by the decedent's will to any devisee shall not be included in exempt property. However, persons to whom property has been specifically or demonstratively devised and who would otherwise be entitled to it as exempt property under this section may have the court determine the property to be exempt from claims, except for perfected security interests thereon, after complying with the provisions of subsection (6).

(6) Persons entitled to exempt property shall be deemed to have waived their rights under this section unless a petition for determination of exempt property is filed by or on behalf of the persons entitled to the exempt property within 4 months after the date of service of the notice of administration or within 40 days from the date of termination of any proceeding involving the construction, admission to probate, or validity of the will or involving any other matter affecting any part of the estate subject to this section.

(7) Property determined as exempt under this section shall be excluded from the value of the estate before residuary, intestate, or pretermitted or elective shares are determined.