

HOLLY JAYNES, CLERK & MASTER THIRD JUDICIAL DISTRICT OF TENNESSEE	This document is for general informational purposes only, is not a substitute for qualified legal advice, and should in no way be relied upon or construed as legal advice. If you want specific information on legal issues or wish to address specific factual situations, you should seek advice from your lawyer.
THE SMALL ESTATES ACT T.C.A. §§ 30-4-101—105.	
This chapter is cumulative to existing law in the administration of decedent's estates and is intended to provide an optional and alternative method for the administration of small estates. 30-4-105.	
SMALL ESTATE	One with PERSONALTY value of \$50,000 or less. 30-4-102(5). Can be TESTATE or INTESTATE .
PERSONALTY	PERSONALTY , or interest therein, owned by Decedent. Includes insurance on Decedent's life payable to the estate. Does not include personalty held jointly with right of survivorship or insurance on Decedent's life payable to beneficiaries other than the estate. 30-4-102(4).
AFFIANT	PERSON executing the AFFIDAVIT . 30-4-102(3).
COURT	Probate court in the Tennessee county where Decedent had <i>legal residence on date of death</i> . 30-4-102(2).
PERSON	Includes individual, partnership, firm, business trust, corporation or other legal entity. 30-4-102(3).
TIME	45 days after Decedent's death if no estate has been commenced. 30-4-103(1)(A). Upon motion of any of Decedent's competent, adult legatees/devisees/heirs/next-of-kin, or on its own motion for good cause, COURT may reduce the 45-day period . 30-4-103(1)(C) (Our Court will not reduce the 45-day period except under extreme circumstances.)
WHO MAY FILE ¹	Any competent, adult beneficiary/heir/personal representative/next-of-kin/creditor. 30-4-103(1)(A). Any competent adult not a beneficiary/heir/personal representative/next-of-kin may be appointed if all competent, adult beneficiary/heir/personal representative/next-of-kin consent in writing to appointment of such PERSON . The consent of any executor who has renounced appointment is not required for COURT to appoint AFFIANT . 30-4-103(D).
AFFIDAVIT Must contain these facts:	Whether Decedent left a Will , if so, original shall be deposited with the Clerk for safekeeping and the \$5 fee paid as required by 32-1-112. 30-4-103(3). A copy of the original will be filed to support the AFFIDAVIT . 30-4-103(1)(A)(i). List of unpaid debts , to include name/address of each creditor and amount due. 30-4-103(1)(A)(ii). Itemized Property description with the value of all Decedent's PROPERTY . 30-4-103(1)(A)(iii). Names/addresses of all PERSONS known to have any of Decedent's PROPERTY . 30-4-103(1)(A)(iii). Schedule of all insurance on Decedent's life payable to Decedent's estate; 30-4-103(1)(A)(iii). Name/age/address/relationship of each person entitled to receive any of Decedent's PROPERTY . 30-4-103(1)(A)(iv). Disclosure that AFFIANT evidences by signature that, subject to penalty for perjury, the AFFIDAVIT is not false/misleading and that AFFIANT is mindful of all duties imposed upon AFFIANT . 30-4-103(1)(B).
BOND REQUIRED	Affiant corporate surety bond. Bond must equal the value of Decedent's estate to be administered. Bond is not required if certain statutory requirements are met. If there are other heirs who may qualify to file, they are required to sign a declination to serve and waiver of bond.
A SMALL ESTATE MAY BE <i>ADMINISTERED</i> IN THE FOLLOWING MANNER:	
ADMINISTRATION BY PROBATE CLERK	
Clerk not liable for good faith services to AFFIANT in completing the affidavit based upon information furnished by AFFIANT . 30-4-103(1)(B).	
Clerk charges fee for processing a small estate pursuant to 8-21-401 and 32-1-112. 30-4-103(3).	
Clerk files and assigns a number to the original AFFIDAVIT and indexes it as other estates are indexed. Clerk delivers to AFFIANT as many certified copies of the AFFIDAVIT as are requested. An Affidavit may be amended if the aggregate amount does not exceed the statutory limitation. 30-4-103(2).	
If required, Clerk sends the NONRESIDENT APPOINTMENT OF AGENT FOR SERVICE OF PROCESS that appoints the Tennessee Secretary of State as AFFIANT 's agent for service of process. 35-50-107.	
ADMINISTRATION BY AFFIANT	
TAKE POSSESSION OF DECEDENT'S PROPERTY	AFFIANT must furnish a certified copy of the AFFIDAVIT to all PERSONS indebted to Decedent or holding Decedent's property, (including registrar/transfer agent of any stock, bonds, notes or other evidence of ownership, indebtedness, property or right belonging to Decedent). Upon receipt of the AFFIDAVIT , and upon AFFIANT 's demand, those persons must pay/transfer/deliver to AFFIANT all such indebtedness owing by and other property in possession of or subject to registration and/or transfer by those persons. 30-4-104(a). After receiving a certified copy of the AFFIDAVIT , if PERSON holding any of Decedent's property refuses to pay/transfer/deliver the property to or at Affiant 's direction, such PROPERTY may be recovered or compelled in an action brought in any court of competent jurisdiction for such purpose upon proof of the facts required to be stated in the AFFIDAVIT . Costs of such proceeding will be adjudged against PERSON wrongfully refusing to pay, transfer or deliver the PROPERTY . 30-4-104(e). Every PERSON making payment, transfer or delivery of Decedent's PROPERTY to AFFIANT are released and discharged from all further liability to the estate and its creditors to the same extent as if such payment, transfer or delivery were made to the duly appointed, qualified and acting personal representative of Decedent, and PERSON making such payment, transfer or delivery shall not be required to see to the application thereof or to inquire into the truth or completeness of any statement in the AFFIDAVIT . 30-4-104(b).
TAXES	AFFIANT must file returns and pay tax on PROPERTY in Decedent's estate. 30-4-104(d).

DISTRIBUTION OF DECEDENT'S ESTATE	Decedent's PROPERTY must be distributed as provided by a will, or if none, to Decedent's heirs by law. AFFIANT and the recipient of PROPERTY from the AFFIANT are liable, (to the extent of the value of the PROPERTY so received), to unpaid creditors and to every other person with a prior claim against Decedent's estate or prior right to any of Decedent's PROPERTY , and are also accountable to any personal representative of Decedent thereafter appointed. 30-4-104(c).	
BOND DISCHARGE	AFFIANT/sureties may obtain discharge from liability under the bond in 1 of 2 ways: 30-4-103(5).	
	A. COURT may discharge bond after AFFIANT files:	The tax receipt issued pursuant to § 67-8-420, OR the certificate issued pursuant to 67-8-409(f) AND An affidavit that each of Decedent's debts are paid. 30-4-103(5)(A).
	B. AFFIANT and sureties on AFFIANT 's bond may wait until the first anniversary of the filing of the affidavit when the court shall automatically discharge them from liability.	
TENNCARE RELEASE	A TennCare release is not required for Small Estates.	
DEATH CERTIFICATE	A copy of the death certificate is required.	
LAST WILL AND TESTAMENT	If there is a Last Will and Testament, it should be presented at the time of filing. It will not be probated but attached to the Small Estates Affidavit as an exhibit.	
