

FAMILY SETTLEMENT AGREEMENT
According to the S. C. Code of Laws, § 62-3-912

Private agreements among successors to a decedent are binding on the Personal Representative: *“Subject to the rights of creditors and taxing authorities, competent successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will of the decedent, or under the laws of intestacy, in any way that they provide in a written contract executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to his obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of his office for the benefit of any successors of the decedent who are not parties. Personal representatives of decedents' estates are not required to see to the performance of trusts if the trustee thereof is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are successors for the purposes of this section. Nothing herein relieves trustees of any duties owed to beneficiaries of trusts.”*

NOTE: Private agreements are often used to change the distribution of the estate when all parties are in agreement. However, the Court has been informed that some title companies do not honor these agreements. An alternative might be to obtain a Court-approved settlement, pursuant to § 62-3-1102.

The Probate Court cannot offer legal or financial advice. Because gift tax issues may be associated with a Family Settlement Agreement, you are strongly advised to seek an estate planning or tax specialized attorney and to consult with a C.P.A.

The Probate Court is strictly prohibited from discussing tax matters.

Thank you.

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF ORANGEBURG	)	FAMILY SETTLEMENT AGREEMENT
	)	
IN THE ESTATE OF:	)	CASE NUMBER: _____
_____	)	

Pursuant to South Carolina Code of Laws, Section 62-3-912, the undersigned have made an agreement among themselves to alter the interests, shares, or amounts to which they may have a claim, as directed by the intestate laws of South Carolina.

WHEREAS, the decedent died without a Will, the intestate laws of South Carolina apply to the distribution of the deceased's assets.

WHEREAS, the intestate laws of South Carolina direct that the real and/or personal property of the decedent shall be distributed to the decedent's heirs as follows

(Please list the names of all testate or intestate heirs with the percentage interest he/she should receive from the Estate pursuant to the South Carolina Probate Code):

WHEREAS, the undersigned parties, as the sole heirs of the decedent, have all agreed to an alternate distribution of the assets of the Estate of the decedent, pursuant to the authority granted by the South Carolina Code of Laws, Section 62-3-912, and that the assets shall be distributed as follows

(Please list the name(s) of the person(s) now receiving assets from the Estate pursuant to the agreement with the item/percentage of the estate he/she will now be receiving. All assets listed on the Inventory and Appraisement – Form 350ES – should be accounted for):

WHEREAS, by signing this document, I understand that I am foregoing my rights under the intestate laws of this state in exchange for the new property distribution described above, and I understand that this agreement is binding upon me, and upon my heirs/assignees. I understand that this agreement consists of ____ pages.

Signature of Heir # 1
Print Name: _____

Signature of Witness to Heir #1
Print Name: _____

SWORN to me this ____ day of _____, 20____.

Signature of Notary
Print Name: _____
Notary Public for South Carolina
My Commission Expires: _____

Signature of Heir # 2
Print Name: _____

Signature of Witness to Heir #2
Print Name: _____

SWORN to me this ____ day of _____, 20____.

Signature of Notary
Print Name: _____
Notary Public for South Carolina
My Commission Expires: _____

Signature of Heir # 3

Print Name: _____

SWORN to me this ____ day of _____, 20____.

Signature of Notary

Print Name: _____

Notary Public for South Carolina

My Commission Expires: _____

Signature of Witness to Heir #3

Print Name: _____

Signature of Heir # 4

Print Name: _____

SWORN to me this ____ day of _____, 20____.

Signature of Notary

Print Name: _____

Notary Public for South Carolina

My Commission Expires: _____

Signature of Witness to Heir #4

Print Name: _____

Signature of Heir # 5

Print Name: _____

SWORN to me this ____ day of _____, 20____.

Signature of Notary

Print Name: _____

Notary Public for South Carolina

My Commission Expires: _____

Signature of Witness to Heir #5

Print Name: _____

Signature of Heir # 6

Print Name: _____

Signature of Witness to Heir #6

Print Name: _____

SWORN to me this ____ day of _____, 20____.

Signature of Notary

Print Name: _____

Notary Public for South Carolina

My Commission Expires: _____

Signature of Heir # 7

Print Name: _____

Signature of Witness to Heir #7

Print Name: _____

SWORN to me this ____ day of _____, 20____.

Signature of Notary

Print Name: _____

Notary Public for South Carolina

My Commission Expires: _____

Signature of Heir # 8

Print Name: _____

Signature of Witness to Heir #8

Print Name: _____

SWORN to me this ____ day of _____, 20____.

Signature of Notary

Print Name: _____

Notary Public for South Carolina

My Commission Expires: _____

[Attach additional signatures as necessary for each heir]