

Collateral Documents Handover in the case of Demise

As per the RBI circular RBI/2023-24/60 DoR.MCS.REC.38/01.01.001/2023-24 the process of procurement of collateral under circumstances such as a deceased borrower needs to be displayed on the website.

In case the borrower is deceased, based on the below scenario the property documents can be procured.

Scenario 1: Deceased borrower who is the sole property owner (Loan with Co-Borrower):

Collaterals can be handed over to legal heirs of the deceased borrower or any person authorized by the legal heirs subject to receipt of following:

- a) Death Certificate of deceased property owner
- b) Succession certificate / Probated Will/ Legal Heir certificate to be issued by Court/ Revenue authority
- c) Affidavit cum declaration signed by all legal heirs to authorize any other person to collect documents on their behalf, in case all legal heirs as per Legal heir certificate cannot appear for document collection
- d) Indemnity from the legal heirs of the deceased property owner.

Please note

In case the customer has died leaving behind a Will-

Probate is not mandatory in all states. We can rely on registered will except for states where probate is compulsory. Probate is mandatory when a will is made in or property is located in following jurisdiction irrespective of where the will is executed:

o Jurisdiction of the regime of the Lieutenant-Governor of Bengal – State of West Bengal, Bihar, Jharkhand, Orissa & Assam.

o Jurisdiction of the Ordinary Original Civil Jurisdiction of the High Courts of Judicature at Madras – Districts of Kanyakumari, Tirunelveli, Tuticorin, Madurai, Dindigul, Ramanathapuram, Virudhunagar, Sivaganga, Pudukottai, Thanjavur, Nagapattinam, Tiruchirapalli, Perambalur and Karur.

o Jurisdiction of the Ordinary Original Civil Jurisdiction of the High Courts of Judicature at Bombay - Maharashtra and Goa and over the Union territories of Dadra and Nagar Haveli, and Daman and Diu.

In all other states it is advisable to collect Probated Will or else registered Will, registered with relevant SRO.

In case the customer has died intestate then, Succession certificate/ Legal Heir Certificate should be collected to determine legal heir(s).

Scenario 2: Deceased borrower who is property owner along with other co-owners: (Title documents to be handed over to authorized co-owner)

- a). Death Certificate of deceased individual
- b). Affidavit cum declaration signed by all legal heirs to authorize co-owners to collect the document
- c) Indemnity from the Co-owner and Legal Heirs who have given the Affidavit as aforesaid.

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Scenario 3: Deceased Co-Borrower (authorized signatory) (non-individual applicant case)

Fresh Board resolution to be issued by the company incorporating the new individual as authorized person for transactions on loan. KYC to be collected before acceptance of foreclosure amount. Based on new documentation, the property documents can be handed over to the new authorized signatory.