

Signature Pages for Will and Self-Proving Affidavit (SC)

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Signature pages that comply with the execution requirements for South Carolina wills, including an attestation clause, signature lines for the testator and witnesses, and a self-proving affidavit. This Standard Clause contains integrated notes and drafting tips.

DRAFTING NOTE: READ THIS BEFORE USING DOCUMENT

To be valid, a will generally must be:

- Executed by an adult person, with capacity.
- In writing.
- Signed at the end by the testator or another person in the presence and at the direction of the testator.
- Signed by two or more competent witnesses each of which witnessed either the signing of the will or the testator's acknowledgment of the signature or of the will.

(S.C. Code Ann. §§ 62-2-501 and 62-2-502.)

A valid will does not require a self-proving affidavit. However, with a few exceptions, a will that includes this affidavit may be admitted to probate without having to submit additional proof that the will was properly executed (S.C. Code Ann. §§ 62-2-503, 62-3-303(c), 62-3-405, and 62-3-406). It is advisable to include a self-proving affidavit when executing a South Carolina will.

This Standard Clause provides the signature pages that can be used with a South Carolina will, including:

- An attestation clause.
- A signature line for the testator.
- Signature lines for witnesses.
- A self-proving affidavit.

For more information on South Carolina wills, in general, see [State Q&A](#), [Wills: South Carolina](#).

Bracketed Items

The drafting party should replace bracketed language in ALL CAPS with case-specific facts or other information. Bracketed language in sentence case is optional language that the drafting party may include, modify, or delete in its discretion. A forward slash between words or phrases indicates that the drafting party should include one of the words or phrases contained in the brackets in the document.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal, this page included, on the [DATE] day of [MONTH], [YEAR].

----- (SEAL)
[TESTATOR NAME], Testator

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The foregoing Will consisting of [NUMBER OF PAGES] typewritten pages, this included, each page thereof bearing on the margin the signature of the Testator, was [DATE] day of [MONTH], [YEAR], signed, sealed, published, and declared by the said Testator as and for [his/her/their] Last Will and Testament in our presence, and we, at the request and in the presence of the said Testator, and in the presence of each other, have hereunto subscribed our names as witnesses on the above date.

----- of _____
[FIRST WITNESS NAME] (City, State)

----- of _____
[SECOND WITNESS NAME] (City, State)

DRAFTING NOTE: SIGNATURE BLOCK

A will must be signed:

- By the testator or by another person in the presence and at the direction of the testator.
- By two or more competent witnesses each of which witnessed either the signing of the will or the testator's acknowledgment of the signature or of the will.

(S.C. Code Ann. § 62-2-502.)

The reference to (SEAL) next to the testator's signature line, simply refers to the testator's signature.

Testator's Signature

If the testator is physically capable of signing the will, the testator should do so, even if the testator's signature is shaky. If the testator's signature looks different from prior signatures or the testator only can sign with initials, the attorney should carefully document this in the file, which may help in the event the signature is later challenged.

If necessary, the testator can have another person sign for the testator, in the testator's presence and at the testator's direction (S.C. Code Ann. § 62-2-502(2)).

Witness Signatures

A South Carolina will must be signed by at least two individuals each witnessing

either the signing of the will or the testator's acknowledgment of the signature or of the will (S.C. Code Ann. § 62-2-502(3)).

A subscribing witness can sign a will even if the witness, the witness's spouse, or the witness's issue receives a gift under the will. However, unless there are two additional disinterested witnesses, the interested subscribing witness or the witness's spouse or issue generally cannot take under the will anything more than that to which person is entitled in intestacy (S.C. Code Ann. § 62-2-504). Therefore, it is best practice to use two disinterested witness to any interested witness or the interested witness's spouse or issue losing a benefit under the will.

Initialing Each Page

To minimize fraud, some attorneys have the testator initial each page of the will, particularly if there is any concern about a person altering the will after execution. Counsel may add in blank lines for initials at the bottom of each page or have the client initial on a blank space at the bottom of each page.

A downside of initialing is the extra time it takes at the will signing. There is also the risk that the testator may inadvertently skip a page at the signing, potentially resulting in a question about validity even in the absence of any wrongful conduct. When using this

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DRAFTING NOTE: SELF-PROVING AFFIDAVIT

This Standard Document includes the form of a self-proving affidavit provided under the South Carolina Probate Code (S.C. Code Ann. § 62-2-503).

Although using a self-proving affidavit is not required to create a valid will, counsel should include one. Including a self-proving affidavit requires a notary to be present when the will is executed so that the witnesses' signatures can be notarized. A self-proving affidavit is usually made a part of a will as an attachment at the end, but it can be prepared after the will's execution (S.C. Code Ann. § 62-2-503(b)).

A will that is self-proved is admitted to probate without having to submit additional proof that it was executed in conformity with South Carolina

law. The self-proving affidavit creates a rebuttable presumption that the signature and witness requirements were met at the time of execution without the need for live testimony or affidavits from the witnesses after the testator's death (S.C. Code Ann. §§ 62-2-503, 62-3-303, 62-3-405, and 62-3-406).

If counsel is helping a testator in poor health, a notary is not readily available, and time is of the essence, counsel should advise the testator not to delay signing the will until a notary is available. However, if possible, the testator and witnesses should still sign a self-proving affidavit as soon as is practicable after the will is signed (S.C. Code Ann. § 62-2-503).

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