



THE PROBATE PROCESS

STEP-BY-STEP GUIDE FORMAL ADMINISTRATION

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STEP 1 – INITIAL CONFERENCE

Following items are gathered:

- original will, if applicable
- death certificates
- warranty deed for home or other real estate, if applicable
- prior appraisals for real property, if applicable
- copies of bank/brokerage/account statements
- copies of stock certificates, dividend statements and/or checks
- outstanding bills, invoices, or other evidence of debts owed
- copy of life insurance policies and beneficiary designations for such policies
- funeral bill and medical bills
- names and current addresses of beneficiaries under will or heirs at law



STEP 2 – FILING DOCUMENTS WITH PROBATE COURT



- Petition for Administration
- Acceptance as Personal Representative and Designation and Acceptance of
- Resident Agent
- Oath of Personal Representative- notarized
- Oath of Witness to Will and Will
- Affidavit of No Florida Estate Tax Due
- Petition to Determine Homestead, Petition to Determine Exempt Property
- Joinders and Consents signed by beneficiaries/heirs

STEP 2 - FILING INITIAL DOCUMENTS WITH THE PROBATE COURT

CONTINUED

- ❖ Letters of Administration, and Order Admitting Will to Probate and Appointing Personal Representative- submitted for judge to sign after case opened
- ❖ Bond may be required
- ❖ After review, judge signs Order Appointing Personal Representative and Letters of Administration



STEP 3 – APPOINTED PERSONAL REPRESENTATIVE, RECEIVE LETTERS OF ADMINISTRATION

EIN

- ❖ Personal Representative applies for EIN from IRS, <https://irs-taxid-numbers.com/estate/>
- ❖ Death Certificate, the EIN and certified copy of Letters of Administration to bank to open Estate account
- ❖ Real property owned by decedent that has not been specifically devised can be listed but any closing on the real property cannot take place until after expiration of the creditor period, 3 months after first publication or within 30 days of formal notice
- ❖ Verify assets, confirm insurance on all assets, and secure



STEP 4 – NOTICE TO CREDITORS – INVENTORY

- ❖ Notice to Creditors- sent for publication and filed in court file
- ❖ Notice to Creditors puts potential creditors on notice that a probate proceeding has been opened for the decedent
- ❖ Formal notice about the probate case sent to all known creditors of the Estate, as well as the State of Florida Agency for Health Care Administration (Medicaid)
- ❖ During three month period of publication, or within 30 days after receiving formal notice, creditor's claim must be filed in probate case or claim is barred
- ❖ Personal Representative may pay or dispute the claims, depending upon validity and available assets to pay
- ❖ Personal Representative liquidates and closes accounts in decedent's name alone and place in estate bank account
- ❖ Attorney files Inventory of estate assets and values in the probate case within 60 days of date Letters of Administration are issued



STEP 5 – CREDITOR PERIOD EXPIRES



- ❖ File Proof of Service of Notice to Creditors and Proof of Service of Notice of Administration with the Probate Court.
- ❖ Interim distributions may be made depending on the amount of money and personal property being held
- ❖ Petition to Determine Homestead Status of Real Property and Order Determining Homestead Status of Real Property sent to judge to sign, transferring property
- ❖ Petition to Determine Exempt Property and Order Determining Exempt Property, to transfer personal property such as automobile and household furniture, sent to judge to sign, transferring property
- ❖ Personal representative hires CPA or accountant to file decedent's final income tax return

PHASE 6 – FINAL ACCOUNTING OR WAIVERS, DISTRIBUTE ASSETS AND OBTAIN RELEASES

- ❖ Final accounting prepared which illustrates assets, resulting values, distributions and costs (personal representative's fee and claims paid)
- ❖ Beneficiaries sign Waiver or Acceptance of Final Accounting
- ❖ Proposed Plan of Distribution prepared for beneficiaries' approval prior to final distribution
- ❖ Beneficiaries sign Consent to Petition for Distribution
- ❖ Beneficiaries sign receipts for distribution
- ❖ Petition for Discharge and Order of Discharge sent to judge to sign, probate estate closed



PLEASE DIRECT ANY FURTHER QUESTIONS TO
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