



PROBATING AN ESTATE

OVERVIEW OF THE PROBATE PROCESS

DEBRA B. BRANHAM
PROBATE JUDGE

Monday - Friday
8:30am - 5:00pm

KERSHAW COUNTY PROBATE COURT

The Kershaw County Courthouse
1121 Broad Street, Room 225
Camden, South Carolina 29020
www.kershawcounty.sc.gov
phone 803.425.1503

TO START THE PROCESS -

1. COMPLETE AN ESTATE PACKET

Estate Packets are available at The Probate Court or on our website.

2. SCHEDULE AN APPOINTMENT

Upon completing your Estate Packet, call and schedule an appointment with the Intake Interview Clerk.

3 STEP PROCESS - PROBATING AN ESTATE

1. APPLICATION AND OPENING AN ESTATE

Forms to complete:

Estate Packet

Form 300ES - Application for Probate

Form 370ES - Notice to Creditors

2. ADMINISTRATION OF THE ESTATE

Forms to complete:

Form 305ES - Information to Heirs and Devisees

Form 120PC - Proof of Delivery

Form 350ES - Inventory and Appraisalment

-or-

Form 352ES - Motion for Extension

3. CLOSING THE ESTATE

Forms to complete:

Form 361ES - Accounting Form

Form 400ES - Deed of Distribution

Form 403ES - Receipt & Release with Waiver

Form 410ES - Proposal of Distribution

Form 412ES - Application of Settlement

Form 416ES - Notice of Right to Demand Hearing

Form 120PC - Proof of Delivery

STEP 1. APPLICATION AND OPENING OF AN ESTATE

Application for Probate

A completed Estate Packet including the Application for Probate (**Form 300ES**) must be presented at your initial scheduled meeting.

Notice to Creditors

If one year has not passed since the date of death of the decedent, the Personal Representative is required to publish the Notice to Creditors (**Form 370ES**) once a week for three (3) consecutive weeks in our local newspaper.

Bond

Bond is required in any of the following circumstances:

- A. Appointment of a Personal Representative NOT named in the Will (unless they are the sole devisee);
- B. Appointment of a Personal Representative of intestate estate (unless they are the sole heir);
- C. Bond for the Personal Representative is expressly required by Will
- D. Demanded by an interested party

Bond may be waived if all heirs and devisees sign a Waiver of Bond (**Form 344ES**).

STEP 1 CHECKLIST -

Check off each form when completed:

- ESTATE PACKET
- FORM 300ES - APPLICATION FOR PROBATE
- FORM 370PC - NOTICE TO CREDITORS

HELPFUL ONLINE VIDEOS:

www.judicial.state.sc.us/selfhelp/index.cfm

"An Introduction to Probate Court: Opening an Estate"

"An Introduction to Probate Court: Inventory & Appraisalment"

"An Introduction to Probate Court: Closing an Estate"

PROBATE FORMS ARE AVAILABLE ONLINE AT:

www.judicial.state.sc.us/forms/searchType.cfm

STEP 2. ADMINISTRATION OF THE ESTATE

Information to Heirs and Devisees

Within 30 days of appointment, a copy of the Information to Heirs and Devisees (**Form 305ES**) must be delivered to all persons with an interest in the estate along with a Proof of Delivery (**Form 120PC**). Send both heirs and devisees copies of these forms and file the originals with The Probate Court.

Inventory and Appraisalment

Within 90 days of appointment, the Personal Representative must file an Inventory and Appraisalment (**Form 350ES**). This form provides a summary of the assets of the estate and their values. If circumstances arise and the Inventory and Appraisalment cannot be filed on time, a Motion for Extension (**Form 352ES**) must be filed to prevent any penalties against the estate and the Personal Representative individually.

Once the Inventory and Appraisalment is filed, The Probate Court costs are determined and due. The estate remains open until the creditor's claim period expires.

Claims

The claims period expires eight (8) months after the first publication of the Notice to Creditors. All claims should be allowed or disallowed by the Personal Representative within sixty (60) days of the presentment of the creditor's claim or within fourteen (14) months from the decedent's death, whichever is later.

The Personal Representative must serve a copy of the Notice of Allowance/Disallowance (**Form 372ES**) on the creditor along with a Proof of Delivery (**Form 120PC**). The originals must be filed with The Probate Court. Before preceeding to Step 3, resolve all claims that are filed against the estate.

STEP 2 CHECKLIST -

Check off each form when completed:

- FORM 305ES - INFORMATION TO HEIRS AND DEVISEES
- FORM 120PC - PROOF OF DELIVERY
- FORM 350ES - INVENTORY AND APPRAISEMENT
- OR-
- FORM 352ES - MOTION FOR EXTENSION

STEP 3. CLOSING THE ESTATE

1. Accounting (Form 361ES)

Accounting Form shows the assets received into the estate and disbursed. Keeping accurate records will help facilitate the accounting.

2. Deed of Distribution (Form 400ES)

Deed of Distribution conveys the real property to the heirs. An attorney will need to assist you with this document. A clocked copy of the Deed of Distribution, from The Register of Deeds Office, will need to be filed in The Probate Court.

3. Receipt & Release with Waiver (Form 403ES)

This form acknowledges heirs and devisees' receipt of distribution of assets.

4. Proposal for Distribution (Form 410ES)

This form indicates any estate assets to be distributed.

5. Application for Settlement (Form 412ES)

The Application for Settlement asks the Court to approve the distribution of estate assets, approve the accounting, and discharge the Personal Representative.

6. Notice of Right to Demand Hearing (Form 416ES)

This form must be served upon all interested parties along with the accounting, Proposal for Distribution, Application for Settlement and a Proof of Delivery. The originals must be filed in The Probate Court.

STEP 3 CHECKLIST -

Check off each form when completed:

- FORM 361ES - ACCOUNTING FORM
- FORM 400ES - DEED OF DISTRIBUTION
- FORM 403ES - RECEIPT & RELEASE WITH WAIVER
- FORM 410ES - PROPOSAL FOR DISTRIBUTION
- FORM 412ES - APPLICATION FOR SETTLEMENT
- FORM 416ES - NOTICE OF RIGHT TO DEMAND HEARING
- FORM 120PC - PROOF OF DELIVERY

COMMON PROBATE TERMS

Decedent - person who passed away.

Testate - decedent has a Will

Intestate - decedent does not have a Will

Heirs - persons who are entitled under the statute of intestate succession to the property of the decedent

Devisees - persons designated in a will to receive

Informal Proceedings - proceedings for Probate of Will and/or Appointment of Personal Representative commenced by application without notice to interested parties

Formal Proceeding - proceedings commenced by filing Summons and Petition with the Court and service of the Summons and Petition upon all interested parties. Formal proceedings are administered and subject to the Rules of Civil Procedure for the circuit courts and other rules of procedure in The Probate Code

Fiduciary - a Personal Representative, Guardian, Conservator, and Trustee

Interested Person - heirs, devisees, children, spouses, creditors, beneficiaries, and any other having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person which may be affected by the proceeding

PLEASE NOTE -

The Probate Staff is not allowed to give legal advice. We are here to accept the filing of documents and ensure the estate is handled appropriately. After meeting with you at your opening appointment, The Probate Staff may suggest to you that this is an estate that should be handled by an attorney.