

Estate Administration

What if the will is unclear?

If the will is unclear, an action to construe the will may be filed in the probate court. A hearing is held to determine the intent of the testator.

May I object to the will?

Any interested party may contest the validity of a will. A will contest must be filed within three months after the filing of a certificate that all interested persons were given or waived notice of the admission of the will to probate.

Must a will be presented to the court?

A will should be presented to the probate court as soon as practical after the death of an individual, even if there are no known probate assets. A person who withholds a will intentionally, negligently, or without reasonable cause may lose the right to inherit.

What property must be appraised?

Property must be appraised if the value is not readily ascertainable. Examples would include real estate and closely held businesses interests.

How are court costs determined?

Court costs are determined by statute. An estate will require an initial minimum deposit of \$125. Court costs for an estate are usually less than \$230, but the total cost will vary depending on the type of actions and pleadings filed.

This pamphlet has been prepared as a public service to provide an understanding of estate administration. It is an overview and should not be considered a legal reference.

Robert G. Montgomery, Judge

FRANKLIN COUNTY
COURT OF COMMON PLEAS
PROBATE DIVISION



Robert G. Montgomery, Judge Estate Administration



Franklin County Probate Court

Franklin County Courthouse
373 South High Street • 22nd Floor
Columbus, Ohio 43215-6311

HOURS

Monday - Friday: 8:00 a.m. - 5:00 p.m.
(Cashier closes at 4:30 p.m.)

GENERAL INFORMATION

614-525-3894

ADDITIONAL INFORMATION

www.franklincountyohio.gov/probate



Franklin County Probate Court

Estate Administration

What is estate administration?

Estate administration is the process by which a person's assets are collected, maintained, and distributed among creditors, heirs and beneficiaries according to the person's will and the laws of Ohio.

When an individual dies, some of the person's assets may be transferred by trust, joint and survivorship property, payable on death accounts, transfer on death property, and beneficiaries named under life insurance and retirement benefits. These are non-probate assets. Other assets must be transferred through proceedings in probate court and these are called probate assets. Most people die owning both probate and non-probate assets.

How does the probate process begin?

After the death of an individual, the probate process begins by any interested person filing an application to administer the estate in the county in which the decedent lived. The court will appoint an estate representative, called a fiduciary. The fiduciary is responsible for administering the decedent's estate and accounting to the court for that administration. A bond may be required of the fiduciary to protect the beneficiaries and creditors of the estate and to insure proper administration of the estate's probate assets.

How are fiduciary fees determined?

Ohio law sets forth fees for a fiduciary of an estate as follows:

- 4% of the first \$100,000 of personal property, income, and proceeds of real estate sold;
- 3% of the next \$300,000;
- 2% of the balance;
- 1% of the value of real estate not sold; and
- 1% of all property that is not subject to probate administration and that is includable for purposes

of computing the Ohio estate tax, except joint and survivorship property.

The fiduciary may waive the fee. Additional fees can be awarded for extraordinary services.

Does a fiduciary need an attorney?

Due to the complexity of the law and the legal issues that can arise in estate administration, the court strongly recommends that all fiduciaries retain legal counsel.

How are attorney fees determined?

There is no minimum fee or percentage fee for the attorney. In Franklin County, the fee is primarily a matter between the fiduciary, the attorney, and others affected by the fee. However, the court must approve all attorney fees.

How long should it take to administer an estate?

The time it takes to administer an estate depends on each estate's circumstances. Some estates are administered in six to nine months. If an estate tax return is required, administration may take a year or longer.

What are the steps of an estate administration?

The basic steps of administration are as follows:

- filing of an application for authority to administer the estate and admit the will to probate, if one exists;
- appointment of fiduciary;
- gathering assets and obtaining appraisals as required;
- filing an inventory of assets;
- paying creditors;
- filing estate and income tax returns and paying taxes, if any;
- distributing remaining assets to beneficiaries;
- filing accounts; and
- closing the estate.



Does reducing probate assets reduce estate taxes?

Reducing probate assets does not reduce estate taxes. It is a common misconception that only probate assets are subject to estate taxes. Non-probate assets must also be included in the decedent's estate tax return. Estates that have a value in excess of \$338,333 will file an Ohio estate tax return. Certain items may be deducted such as debts, administration expenses, and charitable gifts, as well as other deductions and exemptions. The fiduciary should consult a qualified tax advisor concerning estate taxes.



May funds be withdrawn from bank accounts?

Accounts registered in the decedent's name alone may only be withdrawn by a court appointed fiduciary or by court order. Survivorship, payable on death, and transfer on death accounts may be withdrawn by the survivor or named beneficiary. A tax release is required when an account exceeds \$25,000. Tax releases are obtained from the county auditor.

May items be removed from a safe deposit box?

Generally, an interested person may remove items from a safe deposit box and provide an inventory of its items to the court if necessary. However, not all financial institutions allow this and the court will appoint a person to retrieve the items in a safe deposit box.

What if there is no will?

If the decedent had no will, the decedent's probate property is distributed to the decedent's nearest surviving kin in the manner as set forth in the law.