

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 ensure 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
- For dates of death after 2012, 1% of all property that is not subject to probate administration 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. Some circumstances extending estate administration may include the sale of real estate, filing an estate tax return, or if the estate is involved in litigation.

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.



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.

May items be removed from a safe deposit box?

Access to a decedent's safe deposit box depends on the decedent's contract with the bank. Some financial institutions require a court order before allowing access to 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.

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.