

LAW OFFICE
RUTHANN P. LACEY, P.C.

Concentrating in Elder and Special Needs Law

3541-E Habersham at Northlake
Tucker, Georgia 30084

Telephone: (770) 939-4616 • Facsimile: (770) 939-1758
www.elderlaw-lacey.com

Probate: A Summary of Duties of the Executor

Probate is the process by which an individual's Last Will and Testament is "proved" to be valid, the creditors are paid, and the assets are distributed to the heirs as designated in the Will. To be valid, the Will must be properly drafted and must have been voluntarily signed by a competent individual. The executor, who was appointed in the Will, collects the assets, sells property if necessary, pays the bills, and then distributes the remaining assets to the designated heirs. If the court requirements have been fulfilled and all of the estate business has been completed, an estate in Georgia can be closed six months after it was opened. Unlike probate in some states, the probate process in Georgia is not necessarily expensive, time consuming, or complicated.

A probate proceeding is designed to protect all of the various claimants to a deceased person's property and to carry out the wishes of that individual. The probate is also designed to protect the deceased person from wrongful acts of others such as fraud, undue influence and so forth. In Georgia it is not required that the executor use an attorney to probate the will although it is customary and wise.

The following are some of the tasks that an executor must perform before, during and after the probate process:

Preliminary steps:

1. Locate the original Will and any Codicils, and meet with an attorney to begin preparing the Petition to Probate.
2. Locate witnesses if the Will is not self-proved.
3. Obtain certified copies of the death certificate.
4. Obtain signatures of the heirs, or obtain addresses so they can be served.
5. File the Petition, and take the executor's oath.
6. Arrange for bond if necessary.

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7. Publish the Notice to Debtors and Creditors in the appropriate legal newspaper.
8. Request that the Post Office forward mail.
9. Notify Social Security, the Veterans Administration, employers, etc, and apply for benefits as appropriate.
10. Notify the credit bureaus (Equifax, Experian, TransUnion) in writing, and provide a copy of the death certificate.

Administration of the Estate:

1. Receive Letters Testamentary from the Probate Court.
2. Apply for a tax identification number.
3. Locate all of the decedent's property, both real and personal. Locate copies of passbooks or last statements for all individual or joint bank accounts of decedent. Locate information regarding all stocks, bonds, or other securities owned individually or jointly by decedent, including copies of brokerage statements for the last full calendar year and current year until death.
4. Secure real property.
5. Close decedent's bank accounts.
6. Open estate bank and/or stock accounts.
7. Transfer assets to the name of the Estate.
8. Pay the funeral bill.
9. Cancel subscriptions, etc., and request refunds for unexpired terms.
10. Extend insurance coverage to protect the estate for real property, motor vehicles, etc., titled in the decedent's name.
11. Locate federal and state income tax returns for the past three years, and gift tax returns, if any.
12. Arrange for appraisal of assets if necessary (including real estate, leasehold, stocks listed on national or regional exchange, closely held stocks, bonds, notes due the decedent, other debts due the decedent, household property, farm or business property, jewelry, miscellaneous).
13. Obtain copies of life insurance policies owned by the decedent (whether or not on decedent's own life).
14. Obtain the last annual summary, if any, of death benefits provided by the decedent's employer and by prior employers.
15. Obtain copies of documents concerning any prior divorce or separation of the decedent.
16. Obtain documents concerning armed services record of the decedent.
17. Obtain copies of any trust agreements created by the decedent.

18. Obtain copies of any wills or trust agreements of which the decedent was a beneficiary or a fiduciary.
19. Obtain copies of any contracts, not completed prior to decedent's death, to which the decedent was a party.
20. Ascertain the location and contents of any safety deposit box to which the decedent had access.
21. Determine whether the decedent was involved in litigation at the time of his or her death.
22. Prepare and file an Inventory and Annual Returns if required.
23. Pay or compromise just claims against the estate and reject improper claims.
24. Manage or sell real property (obtaining court approval if necessary).
25. File life insurance claims and request copies of Form 712.
26. Notify IRA and pension custodians.
27. Make appropriate partial distributions as estate administration progresses.
28. File income and estate tax returns as necessary.

Distribution of the Estate and Final Settlement:

1. Distribute assets from the estate according to the terms of the Will.
2. Prepare information for final reporting, including a complete list of all assets, income and disbursements.
3. Close estate accounts.
4. Prepare and file the Petition for Discharge as executor of the estate.

