

Probate 101

This factsheet explains the basics of probate, or estate administration. **This is not legal advice.**

Please consult an attorney about your particular situation.

WHAT IS PROBATE?

When a loved one has passed away with any property in his or her name, you will need to go through the probate process in order to transfer the property to your name or another person's name. This process is also known as "estate administration", or "probate."

Generally, you need to do this even if there was a will, or if your loved one told you they wanted you to have the house or some other belonging. The Register of Wills in the deceased person's last county of residence is the agency that you will deal with during the probate process.

PROBATE AND HOMEOWNERSHIP

If you transfer a home to your own name, you will then be eligible to apply for the homeowner's tax credit and home repair programs. To be eligible for these benefits and many others, your name *must* be on the deed. This can help if you're living in a home belonging to a deceased relative and the home is in disrepair, in threat of tax sale or foreclosure, or if you are struggling with paying the property

SMALL OR REGULAR ESTATE?

The total value of the property in the deceased person's name will determine whether you're dealing with a small estate or a regular estate. These two types of estates are treated differently, both in terms of what paperwork you have to file and the cost of the fees you will have to pay.

- ◆ **Small Estates:** The property value must be \$50,000 or less. If the spouse is the sole heir it must be \$100,000 or less.
 - ◆ *If they died before October 1, 2012*, the total value of the property must be \$30,000 or less. If the spouse is the sole heir the value must be \$50,000 or less.
- ◆ **Regular Estate:** The property value is more than \$50,000. If the spouse is the sole heir the value is more than \$100,000.
 - ◆ *If they died before October 1, 2012*, the total value of the property is more than \$30,000. If the spouse is the sole heir the value is more than \$50,000.

How do I get started with probate?

- ◆ If you need to go through probate to change the deed on a home, and you think you qualify for free legal representation through Maryland Volunteer Lawyers Service, contact us using the information at the bottom of the page.
- ◆ Otherwise, a good place to start is the booklet, "Administering Estates in Maryland", at: <https://registers.maryland.gov/main/publications/AdministrationBooklet2020.pdf>. All the necessary forms can be found at <http://registers.maryland.gov/main/forms/html>.
- ◆ More instructions and legal information about Maryland estate law can be found at www.peoples-law.org/cat/willsestatesprobate.
- ◆ The Register of Wills in your county can help you prepare forms and know which forms to fill out, but can't offer legal advice. Find the appropriate Register of Wills at <http://registers.maryland.gov>.
- ◆ If you think you need low-cost legal advice or representation, get a referral to a "low-bono" attorney from Civil Justice. More information at www.civiljusticenetwork.org.

MORE INFO ON BACK!

More resources: mvslaw.org/adv-planning

Request free legal help: mvslaw.org/apply-for-services

Or call intake (9 am - 12 pm, Monday - Thursday) at 1(800) 510-0050

More information...

COST OF ESTATE ADMINISTRATION

<i>Small Estate</i>		<i>Regular Estate</i>	
<i>Required Service</i>	<i>Cost</i>	<i>Required Service</i>	<i>Cost</i>
Small Estate Fee	\$100	Nominal Bond	\$100
Notice to Creditor's Fee	\$50	Publication Fee	\$113
		Regular Estate Probate Fee*	\$300
		Lien Certificate	\$55
		Recordation Fee	\$60
<i>Estimated total cost:</i>	\$150	<i>Estimated total cost:</i>	\$628

*Depends on value of property

In addition, you may need to obtain the death certificate, which will be an additional \$10. There may be additional costs for making copies and sending certified mail.

HOW LONG WILL IT TAKE?

Here's a basic timeline for **small estates**:

<i>What you will file</i>	<i>When it's filed</i>
1. The will, if there is one	As soon as possible after the date of death*
2. Petition for Probate Schedule B and all required papers	As soon as possible after the date of death*
Are there still assets to distribute after you have paid the funeral costs, the family allowance, and the probate fee out of the estate? Then you will have two more steps:	
3. Notice of Appointment for Small Estate	After you have paid for the funeral, the probate, and family allowance
4. Information Report	Within 3 months of the date of your appointment
<i>How long does it usually take?</i>	1 to 4 months

Here's a basic timeline for **regular estates**:

<i>What you will file</i>	<i>When it's filed</i>
1. The will, if there is one	As soon as possible after the date of death*
2. Petition for Probate Schedule A and all required papers	As soon as possible after the date of death*
3. List of Interested Persons	Within 20 days after you submit the Petition for Probate
4. Inventory and Information Report	Within 3 months of the personal representative being appointed
5. First Account	Within 9 months of the personal representative being appointed
6. Any subsequent accounts	Within 6 months of the previous account being approved or within 9 months of the previous account being filed
<i>How long does it usually take?</i>	Anywhere from 9 months to 2 years when uncontested

*Creditors have six months from the date of death to file as a creditor, *regardless of whether the estate is open or not*. The Department of Health and Mental Hygiene has six months from when the estate is opened to file as a creditor.

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