

## The Probate Process

### Loved One Passed Away

Died With A Will = Testate = Property Passes Under Terms of Will

Died Without A Will = Intestate = Property Passes Under Intestate Succession Statute

\*Retain funeral home contracts and receipts.\*

### Application for Probate and Letters (Fee = \$120)

Application submitted to Clerk of Superior Court along with a certified copy of the death certificate and Will, if there is one. Bond may be required.

### Issuance of Letters / Date of Qualification

Executor granted authority to administer the estate after taking an oath to carry out administration faithfully and honestly. Executor should then obtain an EIN for the estate, collect determine if a final tax return is required, set up an estate checking account to hold estate assets, collect important documents (statements, deeds, titles), and cancel utilities and nonessential services (cable, internet, phone, and subscriptions).

### Notice to Creditors

Newspaper Publication (Cost = around \$100): Executor must publish a notice to creditors in a newspaper in the county where the estate is being administered. Notice must be published once a week for 4 consecutive weeks and should state any claims against the estate must be filed by a date which is at least 3 months from the date of first publication.

Personal Notice: Executor must personally notify all creditors who are known or can be discovered upon reasonable investigation.

Affidavit of Notice to Creditors: After all newspaper publications have run and personal notice has been delivered to known creditors, the Executor must file an affidavit with the Clerk stating notice has been given to creditors. The affidavit must be filed 3 months from the date of qualification.

## The Probate Process (continued)

### **Inventory of Estate (Fee = 40 cents per \$100 of probate assets. Min = \$15; Max = \$6,000)**

Within 3 months from the date of qualification, the Executor must file an accurate inventory of the estate and give descriptions and values for all real and personal property as of the date of death. Supporting documentation should also be submitted.

### **Claims Against the Estate**

Executor should not pay any claims until after the time for filing claims has expired. Creditors must be paid in order of priority as determined by statute. Executor may petition for compensation for service rendered. Also, Executor may need to file a final tax return.

### **Distribution of Assets**

After paying all costs of administration, taxes, and other valid claims against the estate, the Executor must distribute the remaining assets in accordance with the Will or per the terms of the intestate succession statute. The Executor should retain receipts for all distributions.

### **Accounting**

Executor must file an annual accounting no later than 1 year from the date of qualification, unless the Clerk grants an extension. Supporting documentation must also be submitted for proof of all disbursements and distributions. If the estate is not finalized within 1 year from the date of qualification, the Executor must file an accounting every year thereafter until the final accounting is filed.

### **Discharge of the Executor**

When the Clerk approves the final accounting, the Clerk will also enter an order discharging the Executor from further liability of the estate.