

Informational Brochure



PROBATE AND ADMINISTRATION OF ESTATES

☀ *What is Probate?*

Probate is a court-monitored process of proving the validity of a will, transferring property, and settling the affairs of the deceased's estate. If there is no will, a similar process known as Administration is used to settle the deceased's affairs.

☀ *When should a Probate be opened?*

As soon as practical following the person's death. In Nevada, if the total amount of the deceased person's assets exceeds \$20,000, or if real estate is involved, probate (or administration) will be required and there is normally no reason to delay starting the process. Nevada law requires a person in possession of the deceased person's will must "deliver it to the clerk of the district court" within 30 days of the death.

☀ *If a Probate or Administration of an estate is not required, how do I inherit a deceased person's assets?*

If there are no real estate holdings and the value of the estate does not exceed \$20,000, certain surviving family member(s) or a person entitled to inherit the property from the estate may initiate proceedings 40 days after the death. Without any court proceeding, these parties may use a form called *Affidavit of Entitlement* permitting the release of the assets from any person or business holding those assets (such as a bank, stock brokerage company or pension plan administrator).



☀ *What if the estate is worth more than \$20,000?*

If the deceased person's assets exceed \$20,000 or if real estate is part of the estate, probate or administration must be used. However, if the value of the deceased person's assets subject to probate does not exceed \$100,000 exclusive of liens, a special petition to the court by the beneficiary or heirs may allow the estate to be "set aside" and distribution made without further court proceedings. The petitioner will receive a court order directing the distribution of the estate property.

☀ *What if the estate's net value exceeds \$100,000?*

If the deceased person's estate has a net value exceeding \$100,000, but does not exceed \$200,000, the estate must proceed through probate by "Summary Administration", which provides for a somewhat simplified procedure. If the deceased person's estate has a net value exceeding \$200,000, the estate must proceed through probate by "General Administration," where the procedure is somewhat more extensive. The Administrator or Executor will receive a document called "Letters Testamentary" or "Letters of Administration" which will be issued by the court, and outlines the Administrator's or Executor's authority and responsibility.

☀ *Can I become the Executor or Administrator of an estate if I do not live in Nevada?*

Nevada does not impose restrictions on residency of an Executor named in a will, but does require a non-resident Administrator of an estate where there is no will to associate with a Nevada resident as co-administrator.

☀ *How long does Probate or Administration normally take?*

In a routine probate proceeding, you can expect a minimum probate period of from 120 to 180 days. This allows for publication of creditor notices and gives creditors time to file claims. However, probate and estate administration often take much longer if complications arise.

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PROBATE AND ADMINISTRATION OF ESTATES (continued from other side)

☀ *Who can withdraw funds from a deceased person's bank account?*

Normally, if the account is held jointly, with rights of survivorship, the surviving owner is entitled to withdraw the money or delete the deceased person's name from the account. The financial institution will probably require a certified copy of the death certificate and proof that the deceased is the same person who owned the account. If the bank account was owned individually by the deceased person, normally only the person appointed as Executor or Administrator of the estate may withdraw funds.

☀ *Will the Executor or Administrator need to obtain a separate Tax Identification Number for the estate?*

Yes. A Tax Identification Number for an estate normally is required. You should not use the deceased person's social security number in most cases. A Tax Identification Number for the estate can be obtained from the Internal Revenue Service.

☀ *Is the Executor or Administrator of an estate personally liable for the deceased person's debts?*

No, not normally. However, the Executor or Administrator is obligated to act in the best interests of the estate and its beneficiaries. It is advisable to consult with an attorney regarding the duties and obligations of an Executor or Administrator prior to accepting the responsibility.

☀ *How do I start Probate or Administration proceedings?*

Usually a relative of the deceased submits to the District Court a "Petition for Issuance of Letters Testamentary" or a "Petition for Issuance of Letters of Administration."

☀ *Do I need an attorney to open a Probate or Administration?*

Although you can open a probate or administration yourself, it is strongly recommended that you seek the assistance of an attorney who has experience with estate matters. A qualified attorney can guide you through the probate or administration process (including proper notification of other potential beneficiaries of the estate) and can be helpful if a dispute arises with creditors or other potential heirs.

☀ *How much will it cost to hire an attorney to process a Probate or Administration?*

The cost of probate or administration will vary depending upon the complexity of the estate. You will need to compare rates and experience of attorneys in your area. Some attorneys charge a small percentage of the estate value at the end of the case, some charge an hourly rate as the case proceeds and some charge a flat rate.

☀ *How do I find an attorney with experience in estate matters?*

You can contact the State Bar of Nevada's [Lawyer Referral & Information Service](#) at 702-382-0504 (toll-free in Nevada at 1-800-789-5747) or look in the yellow pages of your telephone directory. You can also ask friends and/or relatives if they can recommend a good lawyer. The State Bar's main office (see numbers listed below) can tell you whether or not an attorney is licensed in Nevada and in good standing.

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