

INSTRUCTIONS FOR RELIEF FROM ADMINISTRATION

These instructions are a guideline only and should not be considered legal advice. Applicants are encouraged to seek legal counsel as complex matters may arise, such as, but not limited to, apportionment of family allowance, spousal elections involving the mansion house, and the transfer of real property.

A Relief From Administration proceeding may be filed if the decedent's creditors will not be prejudiced and if a full estate administration has not already been opened for the decedent, provided that:

1. The value of the decedent's probate estate (the fair market value of the assets that require administration by the Probate Court) is \$35,000 or less if there is no surviving spouse and the death occurred on or after November 9, 1994; or
2. There is a surviving spouse who is the sole beneficiary of the decedent's estate and the gross value of the estate is \$100,000 or less and the death occurred on or after March 18, 1999.

Smaller dollar limits apply for deaths in earlier years.

Often, it is felt more expedient to proceed with a full administration because of the delay that can result from the requirement that the initial filing must include all of the creditors of the estate and also reflect the amounts due each of them. This information may not be readily available in the period immediately after death.

If an estate that otherwise qualifies for release also has contentious or complicated issues it is generally more appropriate to pursue a full administration rather than a release. Insolvent estates cannot be handled through the release process.

Assets subject to probate are those assets in which the decedent held an interest. Such assets include, but are not limited to, the following:

- Interest in real estate including improved or vacant land, except for those which have a transfer on death deed/affidavit or rights of survivorship;
- Interest in oil, gas, and mineral leases;
- Interest in mobile homes not affixed to the land, except for those which have a transfer on death provision or rights of survivorship;
- Interest in motor vehicles owned by the decedent such as automobiles, trucks, recreational vehicles, motorcycles, boats, and other vehicles which are licensed and titled by the Ohio Department of Public Safety;
- Bank accounts, stock brokerage accounts, individual retirement accounts, pension accounts, mutual funds, or other financial accounts in which the decedent held an interest, except for those which have a named beneficiary, are held in survivorship, have transfer on death provision, or have a payable on death provision;
- Time shares and vacation plans in which the decedent had an interest, except for those which have a named beneficiary, are held in survivorship, or have transfer on death provision;

- Art and antiques;
- Checks issued in the name of the decedent for refunds; reimbursements; oil, gas, and mineral leases;
- State or Federal Income Tax refunds; and
- Other assets which cannot be transferred without approval by the Court.

These assets must pass through the probate process. Assets held in a joint survivorship form, payable on death, or in a transfer on death form are generally not subject to the probate process. Assets such as life insurance that are paid to a named beneficiary generally do not have to pass through the probate process so long as the named beneficiary survived the decedent.

Complete all documents by filling in the applicable blanks except the Case No., hearing dates, and Judge's signature and certification. If the decedent died leaving a will, the will must be admitted to probate as described in these instructions.

Current filing fees are \$145 for applications without a will and \$170 for applications with a will. Applicants must pay this fee in cash, check, money order, or certified check. Checks or money orders will be payable to the Clermont County Treasurer. The Clermont County Probate Court does not accept credit or debit cards.

Applicants are required to apply in person and may obtain the forms from the Court at 2379 Clermont Center Drive Batavia, Ohio 45103 or by downloading the forms from the website <https://probatejuvenile.clermontcountyohio.gov/>. All forms should be typewritten or legibly printed.

The following are necessary at the initial filing of an Application to Relieve Estate from Administration

- A copy of the death certificate or obituary;
- Documents indicating the value of the probate assets: bank accounts are valued by using the balance in the account on the date of death plus any accrued but unpaid interest, as indicated in the most current bank statement (be careful with checking accounts as there may be outstanding checks that may have not cleared the bank; also be careful if the deceased person was receiving social security payments or a pension as the last check may have to be repaid); stocks that are publicly traded can be valued by averaging the high and the low values on the date of death; if the asset is real estate you must use the value from the year of death as indicated on the Clermont County Auditor's website, unless appraised; motor vehicles are valued by using the date of death value, and as indicated in nationally recognized services such as NADA or Kelly blue book; and;
- The receipt of the paid funeral bill showing who made payment for the services, which shall be listed on the back of the Assets and Liabilities form. If any person(s) is due reimbursement for funeral and/or burial expenses, the person(s) will be listed on the back of the Assets and Liabilities form and the Entry Relieving Estate From Administration as a debt. If no person(s) are seeking reimbursement for any funeral and/or burial expenses, a written statement by the person(s) who made payment for services should be attached to

the Assets and Liabilities form. If payment for services was made by an insurance company, please attach the Assignment of Proceeds to the Assets and Liabilities to the Assets and Liabilities form. If payment is still due and owing to the funeral home, this debt will be listed on the Assets and Liabilities form and the Entry Relieving Estate From Administration.

The Assets and Liabilities of the Estate to be Relieved from Administration must accurately reflect all estate assets owned by the decedent at the time of death. The value of the asset is the gross value without reducing the value due to outstanding liens or moneys owed on the asset. Any assets not listed on the Assets and Liabilities of the Estate to be Relieved from Administration will not be transferred by this process and will require an amendment to the Application to Release the Estate from Administration causing unnecessary delay and cost to the Applicant. When the nature of the assets are unknown, the Applicant should consider a full estate administration.

Applicants who do not know the date of death value for bank accounts and other financial accounts may file a Motion to Release Information (Form 200.40). This separate filing costs \$5. Upon completing the Motion, the Court will issue a Journal Entry to Release Information which will permit the Applicant to access information regarding the asset amount and whether it is a probate asset.

IF THE LIABILITIES EXCEED THE ASSETS, THE ESTATE CANNOT BE RELEASED FROM ADMINISTRATION.

Estates involving complex issues regarding the nature of the assets or the distribution to the next of kin are often best handled through a full administration of the estate.

STEP 1: COMPLETE THE FOLLOWING FORMS FOR THE INITIAL FILING
Application to Probate Will (Form 2.0) If there is an original will, file the original will and complete the decedent's name address at time of death noting that the post office may be different from the city, village, or township where the decedent resided.
Surviving Spouse, Children, Next of Kin, Legatees, and Devisees (Form 1.0) List all next of kin. Next of kin generally will consist of spouse, children, children of deceased children, or parents. Be sure to specify the complete home address of all those listed and the mailing address, if different, from the home address. Special rules apply to minors, where date of birth will be listed and parent(s), with whom the minor resides will also be listed. If the minor is living with custodians, a copy of the custody paperwork will need to be presented to the Court upon filing. If the decedent died leaving a will, the second page of the form should list the names and addresses of the beneficiaries of the will. Sometimes the names on the first and second page are the same. Sometimes the beneficiaries of the will are different than the next of kin. Make sure that both the next of kin and the beneficiaries of the will are listed on this form.

Waiver of Notice of Probate of Will (Form 2.1)

Applicants are encouraged to obtain waivers from all persons listed on the Surviving Spouse, Children, Next of Kin, Legatees, and Devisees form. This includes the individuals listed as next of kin on the first page of the form and the beneficiaries of the will listed on the second page of the form. Special rules apply to minors. Minors under the age of 16 may have a parent and/or guardian waive service on behalf of the minor. Minors, age 16 or 17 must be served personally or by certified mail.

Notice of Probate of Will (Form 2.2)

If all persons listed on the Surviving Spouse, Children, Next of Kin, Legatees, and Devisees form do not waive notice of probate of the will, the Applicant will need to send the notice by certified mail to those individuals who have not waived. This includes the individuals listed as next of kin on the first page of the form and the beneficiaries of the will listed on the second page of the form. Special rules apply to minors (See Waiver of Notice of Probate of Will section).

Certificate of Service of Notice of Probate of Will (Form 2.4)

Once the Applicant obtains service of notice of probate of the will or waiver of notice of probate of the will from all persons listed on the Surviving Spouse, Children, Next of Kin, Legatees, and Devisees form, the Applicant will mark the appropriate service boxes and file this with the Court.

Application to Relieve Estate from Administration (Form 5.0)

Please complete the decedent's name address at time of death noting that the post office may be different from the city, village, or township where the decedent resided. Mark the appropriate box indicating whether the decedent had a will. Mark the appropriate box indicating how the estate qualifies for relief from administration.

Assets and Liabilities of Estate to be Relieved from Administration (Form 5.1)

List all probate assets as described in these instructions of the deceased at time of death. If assets are later discovered during the Release from Administration process, the Applicant will be required to amend the application and again serve the necessary parties, or obtain new waivers. Applicants are encouraged to thoroughly explore all assets of the decedent. List all liabilities of the estate including amounts owed by the decedent at the time of death, attorney fees, and funeral expenses. Even if attorney fees and funeral expenses are paid outside of probate and no reimbursement is sought, these liabilities must be listed on the second page of this form. Liabilities cannot exceed estate assets.

Medicaid Recovery Acknowledgment Form (Form 7.01)

Complete this form acknowledging the Applicant's responsibility to notify the Ohio Department of Medicaid if the decedent was receiving Ohio Medicaid benefits. If the decedent was a Medicaid recipient, it will be the Applicant's responsibility to contact Medicaid to inform of the decedent's passing, and to obtain a written determination as to whether or not there will be a claim in favor of Medicaid. Please note, the Applicant must have a written response from Medicaid before the filing of the Application to Relieve Estate from Administration. Medicaid can be reached by phone at 1-800-324-8680, or by mail at Medicaid Estate Recovery, 150 E. Gay Street, 21st Floor, Columbus, OH 43215.

Waiver of Notice of Application to Relieve Estate from Administration (Form 5.2)

Applicants are encouraged to obtain waivers from all persons listed on the Surviving Spouse, Children, Next of Kin, Legatees, and Devisees. This includes the individuals listed as next of

<p>kin on the first page of the form and the beneficiaries of the will listed on the second page of the form. Special rules apply to minors (See Waiver of Notice of Probate of Will Section).</p>
<p>Entry Setting Hearing and Ordering Notice (Form 5.01) If all persons listed on the Surviving Spouse, Children, Next of Kin, Legatees, and Devisees form do not waive notice of application to relieve estate from administration, the Court will set a hearing date on the application and will require notice to those individuals who do not waive by certified mail.</p>
<p>Notice of Application to Relieve Estate from Administration (Form 5.3) If all persons listed on the Surviving Spouse, Children, Next of Kin, Legatees, and Devisees form do not waive notice of application to relieve estate from administration, the Court will set a hearing date on the application and will require the Applicant to serve this notice by certified mail on those individuals who do not waive. This includes the individuals listed as next of kin on the first page of the form and the beneficiaries of the will listed on the second page of the form. Special rules apply to minors (See Waiver of Notice of Probate of Will Section).</p>
<p>Entry Relieving Estate from Administration (Form 5.6) Please prepare a proposed entry. The Assets and Liabilities of the Estate to be Relieved from Administration form should be set forth in the Entry Relieving Estate from Administration (Form 5.6). The Entry will indicate how the liabilities are to be paid and how the net probate assets are to be distributed either according to the will or the statute of descent and distribution. If there are debts to be paid and/or multiple beneficiaries who will receive probate assets, the Applicant should request to be appointed as a Commissioner.</p>
<p>Application for Sale/Transfer of Motor Vehicle (Form 9.4) The Ohio Revised Code defines motor vehicles as automobiles, trucks, mobile homes not affixed to real estate, boats, motorcycles, and other devices that require a certificate of title. Should the assets of the decedent include motor vehicles, the Applicant shall complete the Form 9.4 to take to the local title office. Applicants must pay attention to the vehicle manufacture number and the certificate of title number. Any errors on the form will prevent the title office from transferring the asset.</p>
<p>Application for Certificate of Transfer/Entry (Form 12.0) Should the estate asset involve real estate, THE APPLICANT SHOULD CONSULT WITH AN ATTORNEY. The Applicant will complete the application to transfer the property from the decedent to those who inherit through descent and distribution or under the will.</p>
<p>Certificate of Transfer (Form 12.1) This document will transfer the property from the decedent to the heirs or beneficiaries. Any errors in this documents may affect the future title and marketability of the property. THE APPLICANT SHOULD CONSULT WITH AN ATTORNEY.</p>

STEP 2: FILING OF FORMS WITH DEPUTY CLERK

Applicants must apply in person. When the forms are complete, please present to the Deputy Clerk's desk. The Deputy Clerk will review the forms to determine that they are complete and will assign a case number. If the application and entry are properly completed; all waivers have been obtained from those individuals listed on the Surviving Spouse, Children, Next of Kin, Legatees and Devisees form; and Medicaid has been notified and has asserted their claim, if any; the Deputy Clerk can issue the Entry Relieving the Estate from Administration. In some cases a

Commissioner may need to be appointed to transfer the assets. Otherwise, the Deputy Clerk will set the application for hearing with sufficient time to serve those parties who have not otherwise waived service.

STEP 3: SERVICE OF NOTICE

The Applicant is responsible for ensuring service of Notice of the Hearing. Special rules apply to minors. Prior to the hearing, the Applicant must complete and present to the Court for filing an Affidavit in Proof of Service (Form 200.10) and attach a copy of the Notice of Application to Relieve Estate from Administration along with the return receipt (green card), showing delivery. If the certified mail was returned to the Applicant marked as unclaimed or refused, the Applicant will serve the notice by ordinary mail. The Affidavit in Proof of Service will be marked as served by ordinary mail with the envelope marked unclaimed or refused attached along with the Notice of Application to Relieve Estate from Administration. Should the Post Office return the certified or ordinary mail stating that it was unable to forward, address unknown, unable to deliver, or other statement of failure of delivery, the Applicant will need to publish. The Applicant will exercise due diligence in attempting to locate a valid address for those persons whose address are unknown by contacting friends, relatives, employers, associates of the parent and by searching the internet, court data bases, phone books, or other indexes. The Court will determine whether the Applicant has exhausted all resources to find a valid address to serve the individual and will authorize and approve service by publication.

STEP 4: THE HEARING – WHAT TO EXPECT

A HEARING CANNOT GO FORWARD WITHOUT SERVICE OR WAIVER

At the hearing, the Court will review the Application and service and may take evidence. If Medicaid has been notified and has asserted their claim, if any; all the documents are properly completed; and service is valid; then the Court will issue the Entry Relieving the Estate from Administration.

STEP 5: REPORT OF DISTRIBUTION

Applicants appointed as a Commissioner shall file with the Court a Report of Distribution (Form 5.9). The Report of Distribution will show that the assets have been applied to pay the liabilities of the estate and the net balance has been distributed according to the will or the statute of descent and distribution. The report of distribution will contain documentation that the assets have been received and that the debts have been paid. Evidence of such include signed receipts or canceled checks.