

## INSTRUCTIONS FOR SUMMARY RELEASE 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, the transfer of real property.

The Clermont County Probate Court has the authority to approve a summary release from administration if:

1. The Applicant who is not the surviving spouse, has paid, or is obligated in writing to pay, the decedent's funeral (and burial) expenses and the value of the decedent's assets is the lesser of \$5000 or the amount of decedent's funeral (and burial) expenses; or
2. The Applicant who is the surviving spouse and is entitled to 100% of the family allowance (i.e. there are no minor children of the decedent who are not also children of the surviving spouse), the funeral (and burial) expenses have been prepaid or the surviving spouse has paid or is obligated in writing to pay the decedent's funeral (and burial) expenses, and the value of the decedent's assets do not exceed \$40,000 plus the lesser of \$5,000 and the decedent's funeral (and burial) expenses paid or contracted to be paid by the surviving spouse.

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.

For any other situations, the estate will need to be administered by other methods provided by the Court.

Current filing fees are \$85 for assets over \$1,000 and \$45 for assets \$1,000 or less. Applicants must pay this fee in cash, check, money order, certified check, credit or debit card. Checks or money orders will be payable to the Clermont County Treasurer.

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 a summary release:

- 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 value as indicated in nationally recognized services such as NADA or Kelly blue book; As of April 5, 2017, a surviving spouse may transfer, by way of affidavit, at a local title office, as many motor vehicles, not to exceed \$65,000 total.
- The contract for the funeral bill, receipt of paid funeral bill or, if applicable, the Assignment of Proceeds indicating the Applicant paid the bill or is responsible for payment. There must be only one person responsible for the funeral bill. If more than one person paid the funeral bill, the estate will require different administration provided by the Court.

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.

<b>COMPLETE THE FOLLOWING FORMS FOR THE INITIAL FILING</b>
<b>Application for Summary Release from Administration (Form 5.10)</b> Complete the form including 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. and sign the document in the presence of a Deputy Clerk or a Notary Public who will then notarize your signature.
<b>Surviving Spouse, Children, Next of Kin, Legatees, and Devisees (Form 1.0)</b> 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, as well as the date of birth for any minors.
<b>Entry Granting Summary Release from Administration (Form 5.11)</b> Complete the Form. The Entry Granting Summary Release from Administration will be approved and filed upon the Applicant filing satisfactory proof of mailing Form 7.01 to this Court.

**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 to the Applicant.

**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 the Applicant.

**Certificate of Transfer (Form 12.1)**

This document will transfer the property from the decedent to the Applicant. Any errors in this documents may affect the future title and marketability of the property. **THE APPLICANT SHOULD CONSULT WITH AN ATTORNEY.**

Once the Application for Summary Release is filed with the Court and all of the required forms and the supporting documentation pertaining to Medicaid, ownership, values, family, heirs and next of kin are provided, the matter will be reviewed and the Entry Granting Summary Release from Administration will be approved. The organization of the information and completeness of the forms is wholly within the control of the Applicant.