

## **INFORMATION FOR OPENING A DECEDENT'S ESTATE**

### **INTRODUCTION**

When someone needs to commence probate proceedings for a deceased individual, their first decision is whether to use informal or formal proceedings. Informal and formal proceedings are different ways to admit a will to probate and/or have a personal representative appointed. After a personal representative is appointed in either proceeding, the probate administration becomes an unsupervised administration. If a dispute is expected over the admission of the will and/or an appointment of a personal representative a formal proceeding is required.

### **UNSUPERVISED ADMINISTRATION (File no. suffix is "DE")**

#### **Informal Proceedings ("Application")**

Informal proceedings are commenced by filing an "Application for Informal Probate and/or Appointment of Personal Representative (Testate/Intestate)" (PC-558) along with a death certificate and the related papers listed below. The Application is for the Probate Register to admit the will, if any, to probate and/or appoint a personal representative. If the Application is granted, the Register will sign a form called "Register's Statement" (PC-568) admitting the will and/or appointing a personal representative. [Note that a will informally admitted to probate may be challenged at any time in a formal testacy proceeding.] An appointed personal representative becomes qualified to act by filing an Acceptance of Appointment and any required bond. The personal representative, after receiving letters of authority, will proceed with unsupervised administration until the estate is closed (unless the judge orders that the estate become "supervised" following a Petition requesting supervised administration).

#### **Forms needed to open a file for an informal proceeding, plus \$175 filing fee and \$12 Letter of Authority fee:**

- PC 558 Application for Informal Probate and/or Appointment of Personal Representative (Testate/Intestate)
- PC 565 Testimony, Interested Persons
- PC 566\* Supplemental Testimony, Interested Persons, Testate Estate
- PC 557\* Notice of Intent to Request Informal Appointment of Personal Representative
- PC 564\* Proof of Service (also used in guardianship and conservatorship)
- PC 567\* Renunciation of Right to Appointment, Nomination of Personal Representative and Waiver of Notice
- PC 568 Register's Statement
- PC 570\* Bond of Fiduciary (also used in conservatorship)
- PC 571 Acceptance of Appointment (also used in guardianship and conservatorship)
- PC 574\* Notice to Creditors, Decedent's Estate

***\* The forms may or may not be needed depending on the facts.***

#### **Formal Proceedings ("Petition")**

Formal proceedings are commenced by filing a "Petition for Probate and/or Appointment of Personal Representative (Testate/Intestate)" (PC 559) along with a death certificate and the related papers listed below. After either a court hearing with proper notice to all interested persons or upon filing Waiver and Consents from all interested persons, the probate court may admit a will, determine the heirs of the deceased, and appoint a personal representative. Once the personal representative is appointed, they qualify to act by filing an Acceptance of Appointment (PC 571) and any required bond. The personal

representative, after receiving letters of authority, will proceed with unsupervised administration until the estate is ready to be closed. A petition for a formal proceeding on any aspect of administration may be filed at any point. A judge then enters any applicable orders after either a court hearing with proper notice or upon filing of Waivers and Consents.

**Forms needed to open a file for a formal proceeding, plus \$175 filing fee and \$12 Letter of Authority fee:**

- PC 559 Petition for Probate and/or Appointment of Personal Representative (Testate/Intestate)
- PC 565 Testimony, Interested Persons
- PC 561\* Waiver and Consent (also used in guardianship and conservatorship)
- PC 562 Notice of Hearing (also used in guardianship and conservatorship)
- PC 566\* Supplemental Testimony, Interested Persons, Testate Estate
- PC 569 Order of Formal Proceedings
- PC 570\* Bond of Fiduciary (also used in conservatorship)
- PC 571 Acceptance of Appointment (also used in guardianship and conservatorship)
- PC 574\* Notice to Creditors, Decedent's Estate
- PC 1071 Proof of Identity form

**\* The forms may or may not be needed depending on the facts.**

**SUPERVISED ADMINISTRATION (File no. suffix is "DA")**

Supervised administration may be requested by checking the appropriate box on the "Petition for Probate and/or Appointment of Personal Representative (Testate/Intestate)" (PC 559). [Note: the Petition and other papers are the same as those used when filing an unsupervised estate using formal proceedings.] Supervised administration may also be requested at any time during unsupervised administration. If supervised administration is granted, the personal representative (unless otherwise ordered by the court), will proceed with the same powers as a personal representative who is not supervised except that in supervised administration a personal representative may not make any distributions to heirs or devisees without a prior court order. There are numerous documents that must be filed with the Probate Court during supervised administration.

***Please Note:*** The Court is prohibited from giving legal advice on any of the above proceedings other than to answer specific questions regarding filing requirements. Specific legal advice should be directed to an attorney. MCL 700.1211