

# A GUIDE TO PROBATE AND SELLING ESTATE/INHERITED PROPERTIES



## What Is Probate?

By definition, probate is the court process by which a will is proved valid or invalid or the legal process wherein the estate of a decedent is administered.

In everyday terms, probate is the process that we must go through when a loved one passes away and we need to close out their affairs. Typically this involves identifying all of their assets, selling or donating what the family does not want, paying necessary taxes and distributing inheritances to the heirs.

In reality, probate is a time consuming and emotionally draining process that must be completed by the family in order to settle the affairs of the estate.



# The Process of Probate

## New Jersey Probate

In New Jersey, the probate process is supervised by the Surrogate's Court which is mandated by the NJ State Constitution and has been in effect since 1844. The origin of the Surrogate's Court comes from British Law where the bishop of the region would appoint a substitute, called the surrogate to handle certain affairs. Eventually this authority transitioned from church officials to civil officials. Currently each county in New Jersey has an elected Surrogate who serves for a term of five years. Fees collected for the filing of probate are set by New Jersey Statute and turned over to the Board of Chosen Freeholders monthly.

The main goals of the probate process are to gather a deceased person's assets and distribute them to creditors and inheritors. The duties of the executor, administrator or personal representative of an estate are basically to take care of property, pay bills and taxes, and see to it that assets are transferred to their new, rightful owners.

## A General Guideline to the Process

(Please note that some counties may expect less, while some may expect more. This guideline is provided for informational purposes and should not be construed as legal advice.)

1. Make application to the Surrogate's Court in the county the deceased resided in at the time of death. This can typically be done in person or by postal mail.
2. Receive "Letters Testamentary" or "Letters of Administration" from the Surrogate.
3. Obtain from the Surrogate the number of Short Certificates needed to sell property that is held in the name of the deceased. For example, real estate, stocks or bonds.
4. Take possession of all of the decedent's personal property.
5. Take immediate steps as necessary for temporary protection of the estate. For example, confirm that property insurance coverage has not lapsed.
6. Investigate all claims against the estate, research all outstanding accounts to determine payment status, and then pay all claims determined to be valid.
7. Determine the value of all real and personal property for tax purposes.
8. Collect any money owed to the estate. For example, a refund check.
9. Make the decision as to what assets should be sold to raise cash needed to pay claims, taxes, final expenses, etc.
10. Compile the needed information for estate and inheritance taxes and file the paperwork with the appropriate state or federal office. Note that estate taxes must be paid within the time prescribed by law to avoid penalties.
11. Prepare and file Federal Tax returns. There will be two filings needed: one for the period of time from the beginning of the year until the date of death, and one covering the period after death while the estate is being settled.
12. Prepare an informal accounting to be provided to all heirs.
13. Distribute the assets of the estate as directed by the will. In the event that no will exists, and there are significant assets, the assistance of a reputable probate attorney is strongly recommended.
14. Once all of the assets of the estate have been sold, donated or distributed to the heirs, all taxes filed and paid, and all claims against the estate resolved, the Surrogate will issue a release of the estate.





**Here are the people to contact in your area ...**

***Call Now to Sell***

**856.786.7033**

**SOUTHERN NEW JERSEY  
SURROGATE'S COURTS**

Burlington County  
49 Rancocas Road  
1<sup>st</sup> Floor, Room 102  
Mt. Holly, NJ 08060  
609.265.5005

Camden County  
Aletha Wright Administration Building  
600 Market Street  
Camden, NJ 08102  
856.225.7282

Gloucester County  
17 N. Broad Street  
Woodbury, NJ 08096  
856.853.3282

Cumberland County  
60 W. Broad Street  
Suite A111  
Bridgeton, NJ 08302  
856.453.4800

Salem County  
92 Market Street  
Salem, NJ 08079  
856.935.7510

Atlantic County  
5911 Main Street  
Mays Landing, NJ 08330  
609.645.5800

Cape May County  
(mailing address only)  
4 Moore Road  
Dept. 207  
Cape May Court House, NJ 08210  
609.463.6666

## The Personal Side of Probate

*"We understand, because we've been there ..."*

Several years ago, we were faced with the same stress you're facing now. We had a complicated estate to settle and an unwanted house. Not sure what to do, we explored the different options available. Keep it and find a tenant? Call a realtor? Allow a relative to live there? And on and on ...

The house needed repairs, bills and taxes were due soon, and what we really wanted was a quick and easy way out. The solution came in the form of a real estate investor who wanted to purchase the property to fix it up and use it as a rental unit. The process was quick, we agreed on a selling price and scheduled a closing date. When we sat down at the table for settlement, we were so impressed with how easy it was to get it done. Fifteen minutes later, we walked out with a check for the full amount of the sale price ... no closing costs, no fees, and no commissions paid from our side.

After the estate was settled, we looked back at the sale of the house and realized that our stress would have been greatly reduced had we had more resources or information about our options. From that experience, we grew a real estate investing business that has helped many families going through the probate process to have a simpler way of dealing with the unwanted real estate.



## Probate FAQ's

Why must an estate go through the court process of probate?

Simply put, it is so that the decedent's affairs can be legally concluded.

But my relative left a will ... can't we just distribute the assets as instructed and be done with it?

Unfortunately, the answer is no. Even if the person had a will, the court still has to determine validity of the will, and allow people the opportunity to object. It is also unlikely that any reputable third party would participate in the transfer of assets or property without the appropriate court documents for authorization.

How much will the probate process cost?

A recent report by the American Association of Retired Persons (AARP), there is no set cost for the probate process, however it is reasonable to expect the costs to be in the neighborhood of \$1500. Costs may include court costs, insurance, legal and accounting fees, and executor's fees, to name a few. Costs do not include the "bills" of the estate, which are things like the accumulated debts, and the federal and state tax bills.



## **Your options regarding the real estate . . .**

**Keep it – Live there or Rent it out**

### **SELL IT –**

**Through a realtor**

**Clean It**

**Stage It**

**Make Repairs**

**Keep up maintenance of lawn, etc.**

**Pay Mortgage, Tax & Utility Bills**

**Indefinitely**

**Pay Closing Costs**

**Pay real estate commission**

**up to 6% of price**

**Average time to sell, 6-12 months**

**Wait for loan approval**

**To an investor**

**AS-IS**

**AS-IS**

**AS-IS**

**AS-IS**

**Close before the next  
payment's due**

**No Closing Costs paid  
by the seller**

**No Commissions paid  
by the seller**

**Average time to CLOSE,  
less than 30 days**

**Get paid CASH**

The benefits of selling unwanted real estate to an investor are numerous, and as you can see in the lists above, they really boil down to the following three facts:

**IT IS THE QUICKEST WAY TO SELL A HOUSE YOU DON'T WANT!**

**IT IS THE EASIEST WAY TO SELL A HOUSE YOU DON'T WANT!**

**IT IS THE COST & FEE-FREE WAY TO SELL A HOUSE YOU DON'T WANT!**

**Mayday Planning, LLC  
Cinnaminson, NJ  
856.786.7033  
[www.gosellthishouse.com](http://www.gosellthishouse.com)**