

UNDERSTANDING THE FLORIDA PROBATE PROCESS

Presented by Kimberly Soto, Esq.



The Soto Law Office, P.A.

INTRODUCTION



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HOW TO AVOID PROBATE?

- ✓ By titling assets properly





WHAT IS PROBATE?

Probate is:

a court-administered process used to transfer a decedent's assets to his or her beneficiaries in accordance with Florida Statutes, if no will exists.





IF YOU DON'T HAVE A WILL

If you don't have a will, your estate passes as follows:

- your spouse (even if you're separated),
- your child(ren),
- your parent(s),
- your adult sibling(s),
- an adult relative,



WHAT IS AN ASSET?

Investopedia.com defines an **asset** as:

“anything of value that can be converted into cash.”

SOURCE: Investopedia.com





WHAT ARE SOME EXAMPLES OF ASSET?

- ▶ “Cash, certificates of deposit, checking and savings accounts, money market accounts, physical cash, Treasury bills;
- ▶ Real property – land and any structure that is permanently attached to it;
- ▶ Personal property – everything that you own that is not real property such as boats, collectibles, household furnishings, jewelry, vehicles;
- ▶ Investments – annuities, bonds, cash value of life insurance policies, mutual funds, pensions, retirement plans, and . . .investments.”

SOURCE: Investopedia.com



TYPES OF PROBATE ADMINISTRATION

- Ancillary Administration
- Summary Administration
- Formal Administration



ANCILLARY ADMINISTRATION



When the decedent is domiciled in another state on the date of death but owns property in Florida.

SUMMARY ADMINISTRATION



When an estate qualifies

- The decedent passed away more than two years ago, or
- ▶ the value of the total probate assets does not exceed \$75,000 (excluding exempt assets)

Pros

A personal representative is not permitted

Less costly and time consuming than a Formal Administration



FORMAL ADMINISTRATION

Required when non-exempt assets exceed \$75,000, and it has been less than 2 years since the date of decedent's death

Recommended when:

- there are multiple creditors, or
- a Personal Representative needs to be appointed to handle certain affairs of the estate (e.g., contract issues, mortgage/lienholder negotiations, litigation, etc.)



STAGES IN THE PROBATE PROCESS

- Starts with filing a petition to open the estate
- In formal administration, a Personal Representative will be appointed
- administering the estate
- closing the estate
 - Minimum time to complete process = 5 months
 - Maximum time = years



Contact Information

If you need help or legal advice regarding trusts, probate, or estate planning, feel free to call Estate Planning Attorney, Kimberly Soto, to schedule your consultation today:



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