



Estate Administration

The Personal Representative



Priority for Appointment

- Executor named in Will if there is a Will
 - Successor(s) serve if first named unable or unwilling
- Statutory order of priority and procedure to qualify when there is no Will or no one named in Will can or will serve



Appointment of the Personal Representative

- Personal representative
 - Authorized to administer the estate of the deceased, whether the deceased died testate or intestate
 - Letters testamentary: certificate of appointment of personal representative in testate estate
 - Letters of administration: certificate of appointment of personal representative in intestate estate



Personal Representative's Bond

- Bond
 - Written promise by the personal representative to pay the amount of the bond to the court if the representative does not faithfully perform his or her duties
- Surety bond
 - Contains the signature of individuals or insurance companies (sureties) that promise to pay bond if fiduciary does not perform duties



Duties of Personal Representative

- Locate and read will, if there is one
- Safeguard estate assets
- Determine the decedent's heirs at law
- Petition the court for probate of the will or administration of the estate
- Gather and inventory all assets
- Administer the estate



Duties of Personal Representative

- Prepare tax returns
- Settle all claims
- Distribute the probate estate
- Prepare the probate account
- Obtain the final discharge



Titles of Personal Representative

- Executor
 - Male nominated in a will by testator to serve as personal representative and carry out the directions in the will
- Executrix
 - Female nominated in a will by testator to serve as personal representative and carry out the directions in the will



Titles of Personal Representative

- Administrator
 - Male appointed to administer the estate of an intestate decedent
- Administratrix
 - Female appointed to administer the estate of an intestate decedent



Titles of Personal Representative

- Administrator with the will annexed
 - Also called administrator cum testamento annexo
 - Appointed to administer a testate estate in which no executor is nominated, or the named executor declines the nomination or dies or is disqualified before being appointed



Titles of Personal Representative

- Successor personal representative
 - Administrator of goods not administered
 - Also called administrator de bonis non
 - Appointed when an administrator does not fully perform the task of settling an estate
 - Uniform Probate Code uses the title “successor personal representative”



Titles of Personal Representative

- Special administrator/Curator
 - Appointed to handle the affairs of an estate for a limited time for a special purpose
 - Duties are to collect and preserve the assets of the estate until the executor or administrator is appointed

Removal of Personal Representative

- Cannot resign without court's approval
- Can be removed by court when it is in best interest of estate
 - Mismanagement of estate
 - Disregarding court orders
 - Failure to perform required duties
 - Breach of fiduciary duty
 - Bad character