

# **PROBATE**

## **WHAT IS THE PROBATE OF A WILL?**

Probate is the legal process of putting the will into effect.

## **WHAT IS INVOLVED?**

An application to probate the will is filed with the court. The court gives notice to the public of the application. A hearing is then held where facts, such as, the death of the decedent, his residence, and the fact that the will being probated is the last will are proved. When this proof is made, the court enters an order admitting the will to probate and appointing the executor.

Finally, if the executor is an independent executor, an inventory, appraisal and list of claims is filed after the assets and amounts owed to the decedent are known. Generally, the court's approval of the inventory, appraisal and list of claims concludes the probate.

If the executor is not an independent executor, the process is much more complicated.

## **HOW DOES THE EXECUTOR BECOME AN INDEPENDENT EXECUTOR?**

The easiest way is for the will to appoint the executor as independent executor. However, the law provides for other ways to become an independent executor if the will does not appoint an independent executor.

## **IS PROBATE AN EXPENSIVE PROCESS?**

No. In Texas, it is generally not expensive because Texas authorizes independent executors. To obtain the same benefits which an independent executor provides in Texas, residents of other states usually have to use a living trust.

If an independent executor does not serve, the cost of probate can be much more expensive.

## **IF THE DECEASED DID NOT HAVE A WILL, IS A PROBATE STILL NEEDED?**

Yes. A different form of probate is needed to pass the property to the heirs. Depending on the assets in the estate, the size of the estate, and the condition of the estate, this may be relatively easy or very complex.

## **HOW CAN ADDITIONAL INFORMATION ABOUT THE PROBATE PROCESS BE OBTAINED?**

If you would like additional information, please do not hesitate to contact us.