

MICHAEL R. DOUCETTE, JUDGE

LISA D. BRYANT, CLERK



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(434) 263-7020

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CIRCUIT COURT OF NELSON COUNTY
84 COURTHOUSE SQ., 1st FLOOR
P.O. BOX 10
LOVINGSTON, VIRGINIA 22949

TO MAKE AN APPOINTMENT FOR PROBATE

As you are going through this difficult time, I am hopeful that our office and I will be able to provide aid when you may need it the most.

All probate and qualification matters are handled by appointment only.

Please utilize this packet to assist you in preparing for your appointment. There is helpful information regarding the probate process along with fill-in-the-blanks for what the Probate Clerk will need from you.

There will be fees and taxes involved, especially in estates with large amounts of property. If you wish to have an estimation on the amount that will be due at your appointment, please contact the Probate Clerk beforehand.

*Please Note: Our office can only do cash, check or money order.
We cannot run cards*

For any questions or to set up an appointment, you may use the email below or call our office at 434-263-7020.

Sincerely,

Anna Driggers
adriggers@vacourts.gov
Probate Deputy Clerk

Before You Qualify...

An Executor is an individual named in the will.

An Administrator is typically the spouse, child(ren) or next of kin appointed by the Circuit Court to handle the decedent's affairs when there is no will.

Both have the same authority in handling the decedent's affairs **except** administrators have no power over Real Estate unless they petition the court.

Any time a person qualifies or puts a will to record, probate taxes are due before a Certificate of Qualification can be issued.

This is a one-time payment, different from personal and real estate taxes due to the County Treasurer twice a year.

If the total value of the estate is over \$25,000, an inventory and accounting is required.

The Clerk's Office cannot give legal advice. If there are complicated situations, we suggest consulting an attorney to guide you.

Options for No Will Before Qualifying as Administrator

- Small Estate Affidavit
 - Can take care of assets under \$50,000
 - Submit to the institution (bank, company, DMV, etc)
 - Must wait 60 days after death before submission
 - Must be notarized
 - Please check with your institution if they will accept this Affidavit
 - *Not all will accept the Small Estate Affidavit. Every place has different requirements and procedures to follow.
- DMV Transfer Form-for vehicles
- Real Estate Affidavit
 - Transfers real estate of the decedent to all heirs equally or to remove a deceased co-owner's name
 - Filed with the Circuit Court; \$44
 - Must be notarized
 - It is recommended to retrieve the Tax Cards from the Commissioner of Revenue's office for multiple properties.

Options With A Will before Qualifying as Executor

- The Executor named in the will does not always need to qualify if:
 - Decedent had co-owners or beneficiaries on assets
 - There are no assets to handle on behalf of the deceased
 - The Small Estate Affidavit or DMV Transfer Form can still be used

NOTE: When probated (put to record), the original Last Will & Testament will stay at the courthouse. We cannot accept copies, even if the original cannot be found.

PROBATE INFORMATION FORM

COMMONWEALTH OF VIRGINIA

(For appointment of executor, administrator, and/or probate of a will without qualification.)

1. Decedent's full name

Married Single Divorced Widowed

2. Decedent's address at death (street, city, state, zip)

3. Date of birth Date of death

4. Requested action: appointment of

administrator (no will) executor (named in will) probate of will ONLY

5. Name of person seeking appointment

6. Telephone

7. Physical address

8. Mailing address, if different

9. Email address.....

10. Relationship to decedent.....

11. Additional person seeking appointment

12. Telephone

13. Physical address

14. Mailing address, if different

15. Email address.....

16. Relationship to decedent.....

*any additional people can be added to an extra sheet of paper or the reverse side of this sheet

17. Name of assisting attorney, if any

18. Name of Firm

19. Telephone

20. Attorney's mailing address

21. Attorney's email.....

List of Heirs

A list of heirs is required to be filed when a will is probated or a qualification is made on an estate and it is mainly for genealogy purposes.

The course of decedents is as follows per VA Code Section §64.2-200:

1. surviving spouse of the decedent
2. If there is no surviving spouse, then the estate passes to the decedent's biological children.
3. If there are no children, then to the decedent's parents, or to the surviving parent.
4. If there are no surviving parents, then to the decedent's siblings, and their descendants.

If any heir is deceased, please include their name and indicate “deceased”

NAME	ADDRESS	RELATIONSHIP

NOTE: Addresses are eventually needed to send out a notice of probate or qualification as required by law of the state of Virginia.

SECTION ONE: REAL ESTATE

Did the deceased own any real property in the State of Virginia?

If the answer above is YES:

Please see the **Commissioner of Revenue's** office to obtain copies of the tax cards for the decedent's property **before your appointment**. **This will ensure the transfer of property is smooth and no ownership issues need to be addressed** such as previously deceased co-owners.

If a will bequeaths property to a certain person, putting the will to record takes care of the transfer. There is no need for a new deed to be drawn.

If there was no will, there is a Real Estate Affidavit that transfers the property into the names of all legal heirs equally (follow VA Code §64.2-200). It is a \$44 fee.

NOTE: It may take some time to reflect new ownership on tax tickets as they are printed once a year. **For updating GIS**, they are a separate office from the Clerk's office and can be reached at 434-263-7120.

If there is any real estate located in another county, other than Nelson:

- A "Will Packet" (a certified copy of the Will & Probate Forms) can be prepared by the Probate clerk and can be provided to you
 - This transfers the real estate as devised in the will once it is put to record in that county

or

- a Real Estate Affidavit can be filled out

If there is property outside of the state of Virginia:

- Requires a "Triple Seal" Will Packet that needs to be signed by the Clerk of Court and Circuit Court Judge. The Probate clerk will prepare for you.
- Additional taxes for real estate will need to be collected by the out of state court receiving the packet.

If property is transferred to a Trust:

Name of Trust: _____

Name of contact: _____

Address for contact: _____

SECTION TWO: ACCOUNT VALUES

This is for accounts with ONLY the decedent's name.
DO NOT include any that have joint owners or beneficiaries.

A best estimate is welcome if exact amounts are unknown but please see the note on the next page.** Please list the amounts for the following:

- Checking Account: _____
 - Savings Account: _____
 - Investments: _____
 - Stocks: _____
 - Savings Bonds: _____
 - Certificate of Deposit (CDs): _____
 - Mutual Fund: _____
 - Money Market Account: _____
 - Accounts Receivable: _____
 - Trust Income: _____
 - Life Insurance*: _____
- *if payable to decedent's estate, what is the death benefit payment?
- Others Not Listed: _____

SECTION THREE: PERSONAL PROPERTY

Did the deceased own any automobiles, boats, trailers, or other similar vehicles?
Only list what belongs to the decedent ALONE.

Describe and list the values of each:

This information can be retrieved from the Treasurer's Office or by looking at the most recent tax ticket mailed out.

**Why do we need to know this? These amounts create a fiduciary's bond.
There is always a bond when an Executor or Administrator
qualifies/appointed.**

Fiduciary's bond: guarantees that a fiduciary appointed by a court (such as an Executor/Administrator) will carry out their duties in good faith, honestly, and with integrity. It is a promise not to take advantage of their appointment and protects the estate and beneficiaries from dishonest acts such as theft, fraud, embezzlement, etc.

Any person who lives outside of Virginia (and doesn't qualify with an in-state resident) and/or the total value of the estate is over \$25k, will need a bondsman to create a secured bond as in VA Code §64.2-505.

Below are our frequently used bondsmen:

C. Manly Rucker: 434-946-5297
Rucker Agency, Amherst, VA

Heather Rogers: 434-296-7191
Hankel-Citizens Insurance, Charlottesville, VA

Michele Davis: 434-528-4747
NGM Insurance, Lynchburg, VA

****NOTE:** If the estate is over \$25k, inventory & accountings are required to be submitted to the county's Commissioner of Accounts. If the inventory submitted has a greater value than what was initially given, extra probate tax is required to be paid.

Probate Only

Even if you are not qualifying as Executor and just putting the will to record, probate taxes are due for all property that is in the decedent's name alone.

Tax is not assessed on:

- Estates valued at \$15,000 or less
- Jointly held property with right of survivorship (like husband & wife)

ESTATE CHECKLIST

PLEASE BRING THE FOLLOWING DOCUMENTS TO YOUR APPOINTMENT

- Original Last Will & Testament or any Codicils
- Original Death Certificate/Obituary or other Proof of Death
- Tax Card for all properties owned by decedent from the
Commissioner of Revenue's Office
- Completed all applicable sections of this packet
- Identification/Driver's License for person qualifying
- Check or cash for payment

If Applicable (Probate Clerk can provide):

- Bond Information (See Section Two page)
- Original Waivers of Qualification; Form CC-1608
from other named Executors or heirs
- Deposition of Witness; CC-1601 or CC-1602
(for wills without Self Proving Affidavits or Handwritten)
- Consent of Nonresident Fiduciary for Service of Process; Form CC-1610
(Out of State Qualifying as Executor/Administrator)