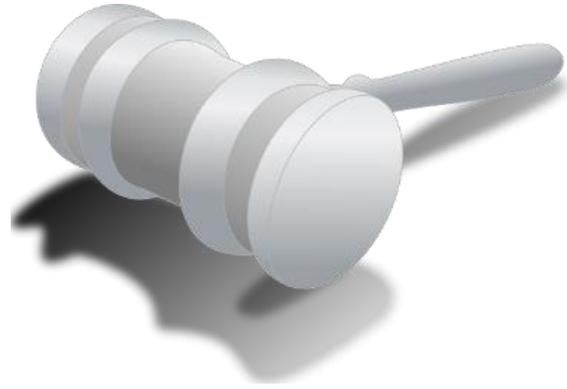


Probate of Will

There are a number of different proceedings which may be filed in the Probate court following the death of a Georgia resident or a non-resident owning property in the State of Georgia. Proceedings are filed in the Probate Court of the county of the decedent's residence in Georgia or in the county where property of a non-resident is located. For each proceeding described, there is a standard form, which the Court will provide to any petitioner.



Do I need a lawyer to probate a will?

It is always best to have legal assistance when dealing in court proceedings; however, the Probate Court does not require you to hire an attorney.

Can the staff assist me in preparing my petition?

The law prohibits the staff of the Probate Court from giving any legal advice or assistance. It is, therefore, a violation for the staff to assist anyone in preparing petitions.

Why does a will need to be probated?

The word "probate" means "to prove". A will is not operative under the law until it has been proven by the Court to be a will. The court process allows anyone who has standing to object and be heard.

Why can't the heirs sell property without coming before the probate court when a loved one dies?

The law changed in 1998 requiring a representative to be appointed by the court (an executor/or administrator). The old law allowed the heirs to pass title by quit claim deed. The new law vests the ownership in the representative.

Is a power of attorney for an individual good after his/her death?

No. The power of attorney loses its authority when the executor dies.

Does a will have to be probated?

No, only if there is enough property in the estate to require probating.

Should the will be filed with the court?

Yes, as required by law.