

A Maryland Judiciary Production
My Laws, My Courts, My Maryland
Series: Preparing to Open an Estate
Title: Part 3 Opening the Estate

Chapter Headings

- Step Four: List the Interested Persons**
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Hello. This video series is for individuals who are preparing to open an estate of someone who died. In this video, we will discuss the final steps you will take to open an estate. Part two of this series discussed the first three steps. This video starts with step four.

As you go through the process of opening an estate, the Register of Wills can help. Visit registers.maryland.gov for forms and helpful information about administering estates in Maryland.

As a reminder, this video series refers to your loved one who passed away as the decedent.

Let's get started with step four: list the interested persons.

Step Four: List the Interested Persons

Prepare a list of all heirs and legatees. They are the interested persons. Heirs refers to the people who might inherit property if there is no Will. Maryland law defines who the heirs are and which heirs are in line to inherit first. For information on who is considered an heir under Maryland law, visit peoples-law.org or see the tip sheet accompanying this video. Legatees are the people named in the Will to inherit property. Make a list of all legatees, heirs, and their addresses. If an heir or legatee is a child who is a minor, include their age, and the name of the person who will be receiving information on their behalf. Talk to a lawyer if you have questions. If you are filing a petition to administer a small estate, submit the list of interested persons with your petition. If you are opening a regular estate, the deadline

is different. You can file the list of interested persons up to 20 days after your appointment as personal representative. For both small and regular estates, use form RW 1104 to file the list. Find it at registers.maryland.gov.

Now you're ready to open the estate. To do that, move on to step five: file the petition for administration.

Step Five: File the Petition for Administration

For a small estate, prepare Petition for Administration form RW 1103 and Schedule B, form RW 1137.

For a regular estate, prepare Petition for Administration form RW 1112 and Schedule A, form RW 1136.

Include the original Will. If you can only find a copy of the Will, you may need to take additional steps.

Talk to a lawyer for legal advice about the Will. If you need help with the forms, contact the Register of Wills. Find all forms at registers.maryland.gov.

Include a certified copy of the death certificate with your Petition for Administration. You can get this from the funeral home or the Maryland Department of Health. Attach the list of interested persons, form RW 1104 if filing a small estate, **or** if you're filing a regular estate and ready to include the list.

You will also need a Notice of Appointment. For the Notice, Use form RW 1109 for small estates, or form RW 1114 for regular estates. The Register of Wills will contact a newspaper to publish the notice of appointment. It will be published once for small estates, and for regular estates, once a week for three weeks. This notice lets people know that they have the right to file an objection to the appointment of the personal representative and the probate of the Will. It also notifies creditors of their right to file a claim. The estate pays for the publication costs. Depending on the estate value, newspaper publication may not be required for a small estate.

If you are not a Maryland resident, you must identify a Maryland resident to serve as a resident agent. The resident agent can receive documents on your behalf when service of process is required. Service of process refers to a particular way that someone receives notice of court action. Use form RW 1106 to appoint a resident agent.

Finally, if the value of the estate's assets total 10,000 dollars or more, after subtracting allowances and administration expenses, then you may be required to include a bond.

Bond

There are two types of bonds: the bond of personal representative and the nominal bond. First, let's talk about a bond of personal representative. A bond of personal representative acts as financial protection from possible harm to the heirs, legatees, creditors, and the state of Maryland. This bond covers losses to the estate if the personal representative steals from or defrauds the estate. You can use funds from the estate to pay for the cost of the bond. Use form RW 1115 for the bond of personal representative. Please note, an insurance company executes the bond form.

If the Will allows for it or you secure the consent of all interested persons, you may be excused from the bond of personal representative requirement, but you still have to provide the nominal bond. If all interested persons agree to waive the bond of personal representative requirement, use Waiver of Bond form RW 1117.

Now, let's talk about the nominal bond. The nominal bond covers the estate's debts, inheritance taxes, court costs, and Register's fees. This type of bond is less expensive than a bond of personal representative and does not protect heirs and legatees. For nominal bonds, use form RW 1116.

Before you file, contact the local Register of Wills office for more information about getting the bond.

The Register of Wills or the Orphans' Court will set the bond amount based on information you provide about the total value of the estate.

The bond company may require that you complete an application. This is part of the process to approve you for the bond. They may consider your employment history, your assets, and your credit score. If you do not qualify for the bond, someone else may be appointed to serve as personal representative. That person may be another family member or a lawyer who is not associated with the decedent's estate.

Let's talk about step six: appointment as personal representative.

Step Six: Appointment as Personal Representative

If all your paperwork is in order, the Register of Wills will admit the Will to probate. The Register or the court will then appoint you as the personal representative. Remember, probate is the process of establishing an estate and distributing the decedent's property.

Let's pause here to talk about the two types of probate procedures: administrative probate and judicial probate.

Administrative probate can happen in two circumstances:

- When the person named in the Will to serve as the personal representative files a petition for a regular or a small estate.
- If there is no Will, then administrative probate may happen when the person with the highest priority to serve as personal representative files a petition for probate.

The order of priority depends on who is entitled to inherit. A spouse and child have equal priority. All other heirs follow in a specified order. If you are unsure about whether you have the highest priority,

talk to a lawyer. With administrative probate, the Register of Wills may appoint the personal representative and set the bond.

Judicial probate requires a court hearing to determine who should be appointed as personal representative. When there is a Will, this type of probate happens in these circumstances:

- When someone other than the person named in the Will files a petition for a small or regular estate without consent from all parties
- When the Will has markings on it. For example, if the decedent crossed something out or wrote something after the Will was executed; and
- When there is only a copy of the Will, as opposed to the original, and the heirs have not all consented to the copy being admitted to probate.

If there is NO Will, judicial probate happens when a person who does not have the highest priority files a petition for probate and does not have the consents of all interested persons, OR if there are two or more people who file a petition to administer the estate.

Finally, whether there is a Will or not, an interested person may ask the court for a judicial probate hearing. With judicial probate, the court determines who should serve as personal representative and sets the bond.

When appointed, you will receive Letters of Administration. Ask the Register of Wills for several official copies of the Letters. You will need one copy for each financial account you need access to.

Once you get the Letters of Administration, the clock starts running. Many deadlines are based on when the Register of Wills or the court appointed you and issued the Letters. The Register of Wills will give you

a document listing deadlines and responsibilities. Make sure to hold onto this list and reference it throughout the process.

For information on your responsibilities as the personal representative, watch our video series, *Estate Administration for Personal Representatives*.

I hope this information is helpful. Thank you for watching.