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PROBATING THE WILL AS A MUNIMENT OF TITLE

This guide has been prepared in order to inform you as to what will be required when a Will is probated as a Muniment of Title. This guide has been prepared for educational purposes only and should not be construed as legal advice.

A Step-by-Step Overview

Probating a Will as a Muniment of Title is often the simplest and least expensive method of transferring property after a person's death. Unlike a traditional probate administration, no Executor is appointed and no Letters Testamentary are issued. Instead, the Court admits the Will to probate solely as evidence of the beneficiaries' ownership of the Decedent's property.

A Muniment of Title is generally appropriate when the Decedent left a valid Will and there is no need for an Executor to administer the estate. In most cases, this means the Decedent has no unpaid debts other than debt secured by real estate (such as a mortgage), there are no creditor issues requiring administration, and the beneficiaries are able to collect and transfer the estate assets without the appointment of an Executor.

Although a Muniment of Title avoids many of the responsibilities associated with a full probate administration, it is not available in every case. During your consultation, we will review the assets, debts, and circumstances of the estate to determine whether this procedure is appropriate.

Generally, the probate process includes the following steps:

1. Prepare and electronically file the Application to Probate Will as a Muniment of Title and pay the County Clerk's filing fee (typically between \$400 and \$500, depending upon the county).
2. Electronically file a scanned copy of the Last Will and Testament.
3. Electronically file a copy of the Decedent's death certificate, if required by the local rules of the Court.

4. File the original Last Will and Testament with the County Clerk.
5. Prepare the probate hearing documents, including the Proof of Death and Other Facts and Order Admitting Will to Probate as a Muniment of Title, and schedule the probate hearing.
6. Attend the probate hearing (many courts now conduct these hearings by Zoom video conference) and obtain signed copies of the Proof of Death and Other Facts and Order Admitting Will to Probate as a Muniment of Title.
7. After the Court signs the Order, obtain certified copies of the Order and the admitted Will and file in the County deed records. These certified copies are generally used to transfer title to real property and to establish the beneficiaries' ownership of estate assets.
8. If required by the Court, prepare and electronically file an Affidavit of Fulfillment of Terms confirming that the terms of the Order have been satisfied. Some courts waive this requirement upon request.

Final Thoughts

Probating a Will as a Muniment of Title can be an efficient and cost-effective alternative to a full probate administration when the statutory requirements have been satisfied. However, because this procedure is available only under limited circumstances, it is important to carefully evaluate the estate before proceeding. During your consultation, we will review the facts of your case and advise you whether a Muniment of Title or a traditional probate administration is the more appropriate option.