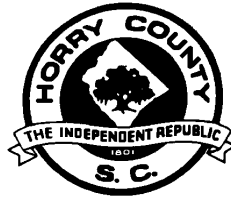


HORRY COUNTY PROBATE COURT
HORRY COUNTY GOVERNMENT AND JUSTICE CENTER
1301 SECOND AVENUE, CONWAY, SOUTH CAROLINA 29526
P. O. BOX 288, CONWAY, SOUTH CAROLINA 29528-0288
PHONE (843) 915-5370 FAX (843) 915-6371
www.horrycountysc.gov/probatecourt

R. Allen Beverly Jr., Judge of Probate
Charles R. Rhodes Jr., Chief Associate Judge
Angela D. Harrison, Associate Judge



Judicial Assistant/Specialist _____
Email: _____
Direct Line: _____

FORMS PERSONAL REPRESENTATIVE (PR) MUST COMPLETE AND FILE WITH THE COURT

Thirty (30) days after Date of Appointment

- A. Information to Heirs and Devisees (Form 305ES) – You were provided with a copy of this form when we met in the office or if you applied by mail, it was included in the packet you received containing your Certificates of Appointment. You are required to send a copy of this document to each heir/devisee (all persons listed in 4(a) and 4(b) on Page 2 of the Form 300ES and any supplemental sheets listing additional heirs/devisees. You must also file a Proof of Delivery (see Paragraph 2 below) confirming that this form was delivered to all required persons. The Information to Heirs and Devisees informs interested persons that an estate has been opened and that you have been appointed as the Personal Representative. The heir/devisee does not have to do anything with the form – it is for their information only.
- B. Proof of Delivery for Information to Heirs and Devisees (Form 120PC) – I also provided you with a copy of this form when we met. This document is proof that you delivered the Information to Heirs and Devisees to the heirs/devisees. Please date, list the documents sent (if not already included), check your method of delivery, list all recipients/addresses, and sign this document in the presence of a notary. Then return to the court within 30 days after your appointment.

Ninety (90) days after Date of Appointment

- C. Inventory & Appraisalment (Form 350ES) – Within ninety (90) days after your appointment, you are required to file an Inventory and Appraisalment with the Court, listing and valuing all property owned by the Decedent at death, including property owned with another person. List the Decedent’s assets, indicate

the percentage ownership Decedent had and the fair market value of the asset. Transfer the totals from each schedule on Page 2 to the Recapitulation portion of the form on Page 1. This document must also be signed in the presence of a notary. You may ask the Court to authorize the employment of appraisers if you believe they are necessary, but they are not required. Take care to discover, list, and properly value all property to avoid delays in closing the estate later. If you need an extension of time in which to file this document with the Court, you can submit a Motion for Extension (Form 352ES) prior to the due date.

Creditor Claim Period

4. If the estate was opened more than one (1) year after Decedent's death, as a general rule, no creditors may submit claims. However, if the estate was opened within one (1) year after Decedent's death, the time period for filing creditor claims expires eight (8) months after the date the Notice to Creditors was first published in the newspaper or one (1) year after date of death (if that occurs prior to eight (8) months after the first date of publication).

When the creditor claim period has expired and prior to the estate being closed, all creditor claims must be resolved, whether Released/Satisfied or Withdrawn by the Creditor, or disallowed by the Personal Representative.

If the estate assets are insufficient to pay all claims in full, payment should be made in the following order:

- A. Costs and expenses of administration, including attorney's fees and reasonable funeral expenses;
- B. Debts and taxes with preference under federal law;
- C. Reasonable and necessary medical and hospital expenses of Decedent's last illness, including compensation of persons attending him/her and medical assistance paid by Medicaid;
- D. Debts and taxes with preference under other laws of this state, in order of their priority; and
- E. All other claims.

While debts or claims may be paid by the Personal Representative at any time during the estate administration, the Personal Representative may be personally liable if a preferred creditor is damaged or injured by a payment to a lesser priority creditor. Claims that are not valid claims may be disallowed by the Personal Representative by completing and sending a copy of Notice of Allowance/Disallowance of Claim (Form 372ES) to the Creditor and filing with the Court the original Notice of Allowance/Disallowance and Proof of Delivery (Form 120PC) reflecting how and when the document was delivered to the creditor.

Please note the Court cannot provide legal advice. If you have questions as to the disallowance, resolution, or payment of creditor claims, you should seek the advice of a licensed South Carolina attorney with experience in handling probate matters.

Deed(s) of Distribution for Real Property

5. If the Decedent owned real property (land, house, etc.) that was not held jointly with a right of survivorship, a Deed of Distribution (Form 400ES) must be completed. This form is used to transfer real property to the decedent's devisees/heirs. This should not be done until all claims have been received and the Personal Representative determines that the assets are sufficient to satisfy all claims without selling or liquidating the assets in order to pay claims. We highly recommend that Deeds of Distribution be prepared by an attorney licensed to practice law in South Carolina.

The original Deed of Distribution must be recorded with the Horry County Register of Deeds prior to being filed with our office. You can mail the original deed to PO Box 470, Conway, SC 29528. The filing fee to record the deed is \$15.00 for up to 4 pages. You will need to make your check payable to the Register of Deeds. After you file the deed of distribution and receive the original back from the Register of Deeds, please forward a time-stamped copy to Horry County Probate Court for our records. You should also deliver the Deed of Distribution to the new owners of the property.

If the Decedent owned real property in other counties in South Carolina, the Deed of Distribution must be recorded in that County. If property is owned in another state, please consult an attorney in that State as to the process for distributing that property.

Closing the Estate (Due 8-12 months after date of publication)

CLOSING OPTION A – SUMMARY ADMINISTRATION: AVAILABLE ONLY IF (1) ESTATE IS VALUED LESS THAN \$25,000.00 AFTER LIENS OR ENCUMBRANCES AND COSTS OF ADMINISTRATION, (2) OR PERSONAL REPRESENTATIVE IS SOLE HEIR/DEVISEE.

1. Verified Statement to Close Estate (Form 421ES) – Under some limited circumstances, a summary administration may be available.
 - a. PR is sole heir/devisee: If the Personal Representative is also the sole heir/devisee of the estate (regardless of the total value of the estate), complete and file Form 421ES. The estate will automatically be closed by the court one year after death.
 - i. If any creditors have filed claims against the estate that have not been satisfied or withdrawn, you will be required to send a copy of the Verified Statement to those creditors and file Form 120PC, Proof of Delivery showing when, how, and to whom delivery was made.
 - b. PR is not sole heir/devisee and value of estate is more than \$25,000.00: Even if the PR is not the sole heir/devisee, if the total value of the estate is less than \$25,000.00 (after taking into account any liens, encumbrances, exempt property, costs and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of Decedent's last illness), you can file Form 421ES.
 - i. If any creditors have filed claims against the estate that have not been satisfied or withdrawn, you will be required to send a copy of the Verified Statement to those creditors and file Form 120PC, Proof of Delivery showing when, how, and to whom delivery was made.
 - ii. An Accounting (Form 361ES) must be completed and sent to all heirs/devisees that have not signed a Waiver of Statutory Filing Requirements (Form 364ES or Form 365ES).

Please note that if the heirs/devisees agree with your administration of the estate and are cooperative, they may sign a Waiver of Statutory Filing Requirements (Form 364ES or Form 365ES) in the presence of a notary and file the signed form with the Court. If all heirs/devisees file Waivers, then the Accounting does not need to be prepared or filed with the Court and the Verified Statement to Close Estate does not need to be mailed to the heirs or devisees.

CLOSING OPTION B – WAIVERS OF STATUTORY FILING REQUIREMENTS: FOR ESTATES WITH MORE THAN ONE HEIR/DEVISEE AND ASSETS GREATER THAN \$25,000.00 WHERE ALL DEVISEES/HEIRS ARE COOPERATIVE)

1. Application for Settlement (Form 412ES): Complete (checking all appropriate boxes, date, and sign this document in the presence of a notary. Then, file the document with the Probate Court to indicate that the file is ready to be closed.
2. Waivers of Statutory Filings (Form 364ES or Form 365ES): If the distributees of the estate agree with your administration of the estate, they can waive the requirement that you prepare and file closing documents. They should sign this form in the presence of a notary and file with the Court. Waivers will be required from all heirs (if there is no Will) or devisees (persons named in the Will).

CLOSING OPTION C – STANDARD CLOSING PROCEDURE, NOT ALL HEIRS/DEVISEES COOPERATIVE

If the heirs or devisees of the estate will not waive your closing documents the Court will require the following documents to close:

1. Accounting (Form 361ES): Please show probated assets on the second page in the left column. This number should include the value of assets as listed on the Inventory and Appraisal along with any additions to the estate (interest, checks received, rental income, etc.). Distributions should be shown on the second page in the right column. Both columns should equal the same total amounts. The totals should be completed on page one with your notarized signature. A copy of this document should be sent to each devisee/heir.
2. Proposal for Distribution (Form 410ES): This document should be completed for any assets that have not yet been distributed. If all assets have been distributed at time of closing, this document is not needed. A copy of this document should be sent to each devisee/heir.
3. Notice of Right to Demand a Hearing (Form 416ES): Please sign this document and send a copy to each devisee/heir.
4. Application for Settlement (412ES): Once you have completed all of the above documents, please complete, date, and sign this document in the presence of a notary. Be sure to check all appropriate boxes. File the completed document with the court to indicate that this file is ready for closure. Send a copy to each devisee.
5. Proof of Delivery for Closing Documents (Form 120PC): Complete this document verifying that you have sent a copy of the Accounting, Proposal for Distribution (if applicable), Notice of Right to Demand a Hearing, and the Application of Settlement to all devisees. Ensure you have completed all applicable portions of the

form including the date the documents were sent, the name of all documents sent, how the documents were sent, and to whom the documents were sent. Date and sign the document in the presence of a notary. File the original document along with originals of the Accounting, Proposal for Distribution (if any), Notice of Right to Demand Hearing, and Application for Settlement with the Court.

General Considerations for Personal Representatives

- A. **Books and Records:** In order to keep proper books for the estate, it is suggested that you establish an estate account in which you will deposit every item of money belonging to the Decedent that comes into your hands and pay all expenses and claims by check. By doing this, you will have no trouble in keeping the exact balance and preparing your final accounting.

- B. **Federal Identification Number:** If a federal tax identification number is required, obtain it through the Internal Revenue Service online at <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>. Please note that obtaining an EIN is free and you should never have to pay to obtain an EIN from the IRS. Avoid companies that attempt to charge you to obtain an EIN on your behalf. If you are represented by an attorney, however, it is expected that they may charge for their time in obtaining an EIN on your behalf.

- C. **Demand(s) for Notice:** If at any time during the administration of the estate, you receive a Demand for Notice, you must comply with the Demand and send a copy of whatever is demanded to the person indicated on the form. Any time you file documents with the Court, if a copy of the document has previously been demanded, you must provide the Court with a Proof of Delivery (Form 120PC) showing that you delivered the required documents to the person indicated on the Demand.