

IN THE COURT OF COMMON PLEAS, PROBATE DIVISION, GEAUGA COUNTY, OHIO
Judge Timothy J. Grendell

Information Sheet
Summary Release from Administration

WARNING

This Information Sheet is intended to provide you with a brief overview of the subject matter. It may not provide you with all information that you require to be fully informed of the law that is applicable to your case. Additionally, the information may not accurately describe the pertinent sections of the Ohio Revised Code that are referenced in the footnotes. You should read those sections that are referenced. The Ohio Revised Code has a link on the Court's website. Additionally, you should consider reading those sections that are footnoted using "Page's Ohio Revised Code Annotated," which can be found at the Geauga County Law Library in the basement of the Courthouse at 100 Short Ct. Street, Chardon, Ohio 44024. Page's Ohio Revised Code Annotated also will provide you a summary of applicable court decisions (known as "case law"). While the Help Center can provide you with a limited amount of information, the Help Center staff cannot provide you with legal advice, and this Information Sheet is not intended to provide you with legal advice that is applicable to your case. You must decide how to best use the information provided. In the footnotes you will see a reference such as "R.C. 2117.25." That refers to Ohio Revised Code Section 2117.25, which is found in R.C. Title 21, and in R.C. Chapter 2117.

Background.

The Ohio Revised Code gives priority to the claim of a funeral director for unpaid funeral and burial expenses, and the claim of a surviving spouse to an Allowance for Support,¹ above the claims of the Decedent's other unsecured creditors.² Essentially, an applicant for a Summary Release from Administration is filing as a creditor, and not as a beneficiary or next-of-kin. Generally speaking, if the value of the Probate Property is equal to or less than the claims of a funeral director and the surviving spouse, in which case there is no money remaining to pay the unsecured creditors or to make a distribution to the other beneficiaries of the probate estate, then R.C. 2113.031 offers an "applicant-creditor" a relatively simple process to obtain a court order of summary release from administration without any requirement of notifying creditors or beneficiaries of the probate estate, and without the need to apply to the Court to have the Decedent's Will admitted to probate. The automobiles selected by the surviving spouse, as permitted by R.C. 2106.18, are not deemed Probate Property. Probate Property may include the Decedent's interest in financial accounts, stocks and bonds, real estate, unpaid wages, uncashed checks, refunds, and automobiles not selected under R.C. 2106.18. Please review the probate information sheet titled "Probate Process Overview" for a description of Probate Property and Non-Probate Property.

¹ See generally probate information sheet titled "Rights of Surviving Spouse."

² R.C. 2117.25(A)

Requirements for Summary Release from Administration.

The Court may issue an order of Summary Release from Administration in one of two situations.

First – If the value of the Decedent’s Probate Property does not exceed the lesser of: (1) \$5,000; or (2) the total amount of the decedent’s funeral and burial expenses, then any person, who has paid, or is obligated to pay, the funeral and burial expenses, may apply for a Summary Release from Administration.³ “Funeral and burial” expenses include not only those set forth in the funeral director’s bill, but also other funeral and burial expenses that are approved by the Court.⁴

Second – If the Decedent has a surviving spouse, then that spouse may apply for a Summary Release from Administration if either of two circumstances apply

- **First Circumstance.** The Decedent's funeral and burial expenses have been prepaid, and the value of the Probate Property does not exceed the total of the following items:
 - The Allowance for Support permitted under R.C. 2106.13. Please review probate information sheet titled “Rights of Surviving Spouse. Generally, the amount for the Allowance for Support is \$40,000, but subject to a downward adjustment for automobiles selected by the surviving spouse under R.C. 2106.13;⁵ and
 - An amount equal to the lesser of: (i) \$5,000, or (ii) Decedent's funeral and burial expenses that are approved by the Court.⁶ The “non-funeral director” funeral and burial expenses that are approved by the Court.⁷
- **Second Circumstance.** The Decedent's funeral director’s bill has not been prepaid, the Decedent's surviving spouse has paid or is obligated in writing to pay the funeral director’s bill, and the value of the Probate Property does not exceed the total of the items described above in the First Circumstance, including the funeral director’s bill.

Procedure to Obtain an Order Relieving the Estate from Administration

If you intend to serve as the Estate Representative⁸ and to commence a probate proceeding, you need to decide whether to proceed as a Full Administration, Release from Administration, or Summary Release from Administration. If you conclude that a Summary Release from Administration is available to you, then before you proceed you should review the probate information sheets titled “Probate Process Overview” and “Rights of a Surviving Spouse,” and please read the “Checklist – Summary Release From Administration,” which is on the Court’s website.

³ See R.C. 2113.031(B)(1).

⁴ See R.C. 2113.031(A)(20)(b).

⁵ See probate information sheet titled “Rights of Surviving Spouse.”

⁶ See R.C. 2113.031(A) for the definition of “funeral and burial expenses.”

⁷ R.C. 2113.031(A)(2)(b).

⁸ “Estate Representative” is the person appointed by the probate court to handle the probate estate, whether the probate process is a Full Administration (in which case the name of that person is the Executor, Administrator, or Administrator with Will Annexed), the Commissioner of a Release from Administration, or the applicant of a Summary Release from Administration. Sometimes that person is called a “fiduciary.”

Preliminary Considerations. Before you decide whether the Decedent's probate estate qualified for a Summary Release from Administration, please to the following:

- Identify Beneficiaries and Next-of-Kin. Review the form titled "Surviving Spouse, Children, Next of Kin, Legatees and Devisees" (Form 1.0). Gather the information required to prepare and file with the Court that form.
- Determine if Decedent had a Safe Deposit Box. Determine whether the Decedent had a safe deposit box. Check with the bank that has the Decedent's checking account. If you locate a safe deposit box, then review the "Checklist - Safe Deposit Box" on the Court's website. You may obtain a court order by filing an application titled "Application For Appointment Of Commissioner To Report On The Contents Of A Safe Deposit Box" (GC PF 41.0), together with: (1) a redacted death certificate, (2) a form titled "Surviving Spouse, Children, Next of Kin, Legatees and Devisees" (Form 1.0), and (3) a Judgment Entry titled "Judgment Entry Appointing Commissioner to Inventory Safe Deposit Box" (GC PF 41.1). Of course, if the safe deposit box is jointly owned, then the surviving owner can open the safe deposit box without need of a court order.
- Unclaimed Funds. The Decedent may be owed unclaimed funds for any variety of reasons, including a deposit refund, forgotten bank account, expense reimbursement, wages, etc. Consider contacting the Ohio Division of Unclaimed Funds. The website is <https://www.com.ohio.gov/unfd/>. The website has a useful tool to search for unclaimed funds. The phone number is 877-644-6823. The mailing address is Ohio Department of Commerce, Division of Unclaimed Funds, 77 South High Street, 20th Floor, Columbus, OH 43215-6133.
- Allowance for Support Reduction. If applicable, determine whether the Allowance for Support must be reduced as required by R.C. 2106.13(C) by reason of the value of a vehicle selected under R.C. 2106.18.
- Funeral Director's Bill. Obtain a copy of the funeral director's bill. If that funeral bill has been paid, then obtain (i) a copy of the proof of payment by the funeral director and (ii) proof of payment by the person who paid that funeral bill (e.g. a cancelled check), which must be the applicant, or if waived, a copy of the waiver of payment by the funeral director. The funeral bill must be paid before any distribution to the beneficiaries or heirs. If there is no funeral expense, typically the result of the Decedent having donated the body, and the body was cremated by the donee institution, then obtain a statement from that institution explaining the event and file a copy of that statement in lieu of the paid funeral director's bill.
- Other Funeral Expenses.⁹ If the applicant intends to determine the recoverable funeral expenses other than those billed by the Funeral Director, then gather the evidence of both those expenses and proof of payment by the applicant. Court approval is required, which may be obtained by preparing and filing with the Court the form titled "Application for Approval of Funeral Expenses" (GC PF 5.12).

⁹ See R. C. 2113.031(A)(2)(b)

- Identify the Decedent's Probate Property.
 - As noted in the "Checklist - Summary Release From Administration," make a detailed list of the Decedent's Probate Property, including gathering copies of all documents that evidence title to property (such as, legal description for real property, vehicle titles, financial account statements, digital assets, retirement account statements, stock certificates, bonds, uncashed checks, tax refunds for year of death, digital assets, copy of wages due from employer if possible, etc.).
 - Obtain Financial Information. If the Decedent owned financial accounts and you do not know the account balances or account numbers, and if the financial institution will not release that information to you, then you can obtain a court order that requires the financial institution to release that information to you. Read Geauga Probate Local Rule 78.23. You can obtain a court order by preparing and filing with the Court the forms titled "Application to Release Financial Information" (GC PF 4.13) and "Waiver and - Release of Financial Information" (GC PF 4.14), which must be signed by those person who should be identified in Form 1.0 - see above. Note that you must deliver a copy of the "Application to Release Financial Information" (GC PF 4.13) to each of those persons before they sign the "Waiver and - Release of Financial Information" (GC PF 4.14). Moreover, note in Geauga Probate Local Rule 78.23 that there are a number of documents that must be filed with the Court together with the "Application to Release Financial Information" (GC PF 4.13).
 - Digital Assets. Review (i) the probate information sheet titled "Digital Assets" and (ii) the form titled "Digital Asset Certification" (GC PF 6.5). You need to prepare and file the "Digital Asset Certification" (GC PF 6.5) with "Application for Summary Release from Administration" (Form 5.10). You must make a careful review to determine to what extent the Decedent owned Digital Assets.
 - Tangible Personal Property. Review the form title "Tangible Personal Property Certification" (GC PF 6.6). You need to prepare and file the "Tangible Personal Property Certification" (GC PF 6.6) with "Application for Summary Release from Administration" (Form 5.10). You must make a careful review to determine to what extent the Decedent owned tangible personal property, particular that which has significant value, for example jewelry, collections, antiques, artwork, etc.
 - Appraisal. Decide whether any Probate Property must be appraised.¹⁰ Perhaps untitled tangible personal property, such as jewelry, collections, artwork, antiques, should be appraised and itemized. If so, determine who will be the appraiser, depending upon the nature of the Probate Property to be appraised. The Estate Representative can select more than one appraiser.¹¹ See the Court's website for a list of the approved appraisers.¹² The Estate Representative may pay the cost of the appraiser from the Probate Property after appointment. Keep in mind that if Probate

¹⁰ See generally probate information sheet titled "Probate Process Overview."

¹¹ R.C. 2115.06. See Loc.R. 5 of the Court of Common Pleas of Geauga County, Probate Division for a list of approved appraisers.

¹² Loc.R. 5 of the Court of Common Pleas of Geauga County, Probate Division.

Property includes an ownership interest in real property or a vehicle that is probate property, then the value may be determined by means other than appraisal, as explained in probate information sheet titled “Probate Process Overview.”

Note: If you need an appraiser, then prepare and file with the Court the form titled “Appointment of Appraiser” (3.0).

- The general rule is that any Probate Property that does not have a readily ascertainable value must be appraised.¹³ You should review the probate information sheet titled “Probate Process Overview” regarding appraisers and the appraisal of Probate Property.
- Keep in mind that if Probate Property includes an ownership interest in real property or a vehicle, then the value may be determined by means other than appraisal.
 - Vehicles. Rather than appraisal, the Court will accept the value of a vehicle as established by Kelley Blue Book.¹⁴ If you elect to determine value using Kelley Blue Book, then make a photocopy of the page that sets forth the value and file it with the Court when you file the “Application for Summary Release from Administration” (Form 5.10).
 - Real Estate. The Court may accept as the value of real estate the value set forth on the latest assessment by the county auditor for determining real estate taxes – or “letter of valuation” from the County Auditor’s Office (or the Auditor’s REALink site¹⁵). If you intend to establish value in that manner, then you must prepare and file with the Court the form titled Application for Order Dispensing with Appraisement” (GC PF 3.2). Be sure that the form is notarized. Additionally, make a photocopy of the auditor’s letter of valuation (or REALink printout) and file it with the Court when you file the “Application to Relieve Estate from Administration” (Form 5.0).
- Death Certificate. Obtain a copy of the Death Certificate. Typically, the funeral director can obtain it for you. The Court does not require a certified copy. Before filing with the Court, the applicant must: (1) shrink the size of the death certificate to letter-size and (2) redact the Decedent’s social security number
- Identification. If you are not represented by an attorney, then gather (1) a government-issued photographic identification (e.g. a current driver’s license or passport), and (2) evidence of current mailing address (e.g. recent utility bill, bank statement account, property tax bill, voter registration card).

¹³ R.C. 2115.02

¹⁴ See <https://www.kbb.com/>

¹⁵ See <http://geaugarealink.co.geauga.oh.us/realink/>

Preparation of Document to be Filed. Review the “Checklist -

- Application for Summary Release from Administration. In order for the Estate Representative to have the authority to collect the Probate Property and distribute the Probate Property in accordance with law, the Judge must appoint the Estate Representative. To receive such authority from the Judge the applicant must prepare and file with Court the form titled “Application for Summary Release from Administration” (5.10).
 - You will indicate the basis upon which you may proceed with a Summary Release from Administration.
 - Be sure to indicate all known names of the Decedent on the Court forms, especially if different names are indicated on financial accounts, stock certificates, vehicle titles, real estate deeds, etc.
 - You will describe the Probate Assets and their value.
 - The “Application for Summary Release from Administration” is a public record. Do not include on the “Application for Summary Release from Administration” any information concerning the identity of the Decedent or the Probate Property, known as “personal identifiers.” Examples of personal identifiers are the Decedent’s social security number, bank account numbers, or other brokerage or financial account numbers. Instead, provide such information to the Court by completing and filing the form titled “Confidential Disclosure of Personal Identifier (Form 45(D)). That form is not a public record, and the Court will keep it confidential. However, with respect to financial accounts that have a unique account number, you should include the last four digits in the description of each such account on page two of the form titled “Application for Summary Release from Administration” (Form 5.10) - see Geauga Probate Local Rule 78.1(F).

Note: If you intend to include paid funeral and burial expenses that are not included in the funeral director’s bill, then complete and file with the Court the Application for Summary Release from Administration, the form titled “Application for Approval of Funeral Expenses” (Form GC PF 5.12).

- Regarding tangible personal property consisting of household goods, clothing, furnishings, which do not have a significant value, you need not identify such items separately on the Application for Summary Release from Administration (Form 5.10). You may indicate on that listing something like “household goods, clothing, furnishings” and assign a value based upon a reasonable estimate of what you could sell such items at a public auction. Regarding tangible personal property that has a significant value, such as jewelry, artwork, or collections you must separately list those items on the Application for Summary Release from Administration (Form 5.10). Depending upon how you complete the form titled “Tangible Personal Property Certification” (GC PF 6.6), you may be required to prepare and file the form titled “Supplemental Schedule of Assets (GC PF 6.1A).

- Regarding Digital Assets should identify the Digital Assets on the Application for Summary Release from Administration (Form 5.10). Depending upon how you complete the form titled “Digital Asset Certification” (GC PF 6.5), you may be required to prepare and file the form titled “Supplemental Schedule of Assets (GC PF 6.1A).
- The applicant’s signature on the Application for Summary Release from Administration must be notarized.
- If the Decedent died with a Will, there is no need to file an Application to Probate Will, or otherwise present the Will to the Probate Court. However, please read the probate information sheet titled “The Decedent’s Will.” The applicant should consider depositing the Will with the Court in case additional Probate Property is later found.
- List of Surviving Spouse, Children, Next-of-Kin, Legatees and Devises. Prepare and file with the Application for Summary Release from Administration the form titled “Surviving Spouse, Children, Next of Kin, Legatees and Devises” (Form 1.0)
- Other Documents to be Filed.
 - Death Certificate. Together with the Application for Summary Release from Administration, file with the Court a letter-size copy of the death certificate, with the Decedent’s social security number redacted.
 - Residency Affidavit. If the Decedent’s residence on the death certificate is different from the Decedent’s actual residence in Geauga County as of the date of death, then prepare and file with the Court the form titled “Residency Affidavit” (GC PF 052).
 - Proof of Payment – Funeral Bill. Together with the Application to Relieve Estate from Administration, file with the Court a copy of (i) the funeral bill (both funeral and burial costs), and (ii) proof of payment by the applicant (e.g. cancelled check, receipt). If the funeral bill has been paid, then obtain and file with the Court a copy of the proof of payment, or if waived, a copy of the waiver of payment. If there is no funeral expense, typically the result of the Decedent having donated the body, and the body was cremated by the donee institution, then obtain and file with the Court a statement from that institution explaining the event and file a copy of that statement in lieu of the paid funeral director’s bill.
 - Proof of Ownership.
 - Real Property. Regarding any real property that is Probate Property, the Estate Representative must file with the Application for Summary Release from Administration a copy of the legal description with the permanent parcel number.
 - Vehicles. Regarding any vehicles (including motorcycles, recreational vehicles, boats, airplanes, etc.) that are Probate Property, the Estate

Representative must file with the Application for Summary Release from Administration a copy of the certificate of title for each “vehicle.”

- Financial Accounts. Regarding financial accounts (for example, checking and saving accounts, certificates of deposit, brokerage accounts, retirement accounts, life insurance, annuities, etc.), the Estate Representative must attach to the Application for Summary Release from Administration a copy of the statements or other evidence of ownership. Regarding those financial accounts that have a unique account number, you must only include the last four digits in the description of each such account on page two of the form titled “Application for Summary Release from Administration” (Form 5.10) - see Geauga Probate Local Rule 78.1(F).
 - Stocks and Bonds. Regarding any stocks and bonds not held in a brokerage account that are Probate Property, the Estate Representative must attach copies of those instruments to the Inventory and Appraisal.
 - Uncashed Checks, Wages. Regarding any uncashed checks and unpaid wages that are Probate Property, the Estate Representative must attach copies of those checks or wage statements to the Inventory and Appraisal.
- Personal Identification. Unless you are represented by an Ohio attorney, obtain (1) a government-issued photographic identification (e.g. a current driver’s license or passport), and (2) evidence of current mailing address (e.g. recent utility bill, bank statement account, property tax bill, voter registration card). Moreover, gather information concerning any criminal acts that you were convicted of or that you pled guilty to.
 - Digital Asset Certificate. Prepare and file with the Court the form titled “Digital Asset Certification” (GC PF 6.5).¹⁶ Be prepared to file the form titled “Supplemental Schedule of Assets” (GC PF 6.1A) if requested by the Court.
 - Tangible Personal Property Certificate. Prepare and file with the Court the form titled “Tangible Personal Property Certification” (GC PF 6.6).¹⁷ Be prepared to file the form titled “Supplemental Schedule of Assets” (Form GC PF 6.1A) if requested by the Court.
 - Entry Granting Summary Release from Administration. Prepare and file with the Application for Summary Release from Administration (Form 5.10) the form titled “Entry Granting Summary Release from Administration” (Form 5.11).
 - Be Prepared to Pay the Court Costs. The court costs are listed on the Court’s website. Please understand that the payment of court costs is really a deposit against the actual court costs incurred. If the actual court costs are more than the deposit, the Estate Representative shall pay the additional court costs. Likewise, if the actual court costs are less than the deposit, the Court will reimburse the Estate Representative for that excess amount.

¹⁶ See Geauga Probate Local Rule 78.5(A)(3)(a).

¹⁷ See Geauga Probate Local Rule 78.5(A)(3)(a).

Other Matters to Consider

- Allowance for Support. If the Estate Representative determines that a surviving spouse or surviving minor children of the Decedent are entitled to receive an Allowance for Support under RC 2106.13 (see the probate information sheet titled “Rights of Surviving Spouse”), then:
 - If there is a surviving spouse and the surviving spouse is the natural parent of all minor children (if any) of the Decedent, then the Estate Representative should prepare and file the form titled “Application for Family Allowance” (Form 7.1); and
 - If the Judge must allocate the Family Allowance as provided in RC 2106.13, then the Estate Representative should prepare and file the form titled “Application for Apportionment of Family Allowance” (Form 7.2).
- Transfer of Real Property. If the Probate Property includes real property, then the Estate Representative should prepare and file with the Court the forms titled “Application for Certificate of Transfer” (Form 12.0) and “Certificate of Transfer” (Form 12.1). When the Court issues the Certificate of Transfer, then that document should first be filed with the County Auditor’s office, and then with the Court Recorder’s office.
- Transfer of Motor Vehicles. If the Probate Property includes a motor vehicle (including motorcycles, recreational vehicles, boats, airplanes, etc.), then at the bottom of page one of the “Application for Summary Release from Administration (Form 5.10),” the Estate Representative should describe the vehicle as presented on the Certificate of Title, including the VIN number. After the Judge has signed the “Entry Granting Summary Release from Administration” (Form 5.11), a certified copy of both the “Application for Summary Release from Administration (Form 5.10)” and the “Entry Granting Summary Release from Administration” (Form 5.11) should be delivered to the department of motor vehicles and a new certificate of title should be issued in the name of the applicant. Note that vehicles selected by the surviving spouse under RC 2106.18 are not Probate Property, and the surviving spouse can affect the transfer of title for such motor vehicles by presenting to the BMV the death certificate and the certificate of title.
- Tax Concerns. Please review the probate information sheet titled “Creditor Rights.” Additionally, review IRS Publication 559. You may have a duty to file the Decedent’s federal and Ohio income tax returns, and possibly an income tax return for the probate estate. The filing of those tax returns could result in a refund. You should consider hiring a tax advisor to assist you. You should consider whether to apply for a federal tax identification number for the estate, especially if you have a duty to file an estate federal income tax return or you intend to establish an estate checking account, as discussed below. You should discuss this question with a tax advisor. If you desire to obtain a federal tax identification number, then consider using the IRS website. The link is on the Court’s website.
- Medicaid Estate Recovery Program. Again, please review the probate information sheet titled “Creditor Rights.” You may have a duty to:
 - prepare and deliver a notice, by certified mail, return receipt requested, to the Administrator of the Medicaid Estate Recovery Program not later than 30 days after the date that you were appointed the Estate Representative, using the form titled

Notice to Administrator of Medicaid Estate Recovery Program (Form 7.0A).¹⁸

- Promptly after delivery of the Notice to Administrator of Medicaid Estate Recovery Program, prepare and file with the Court the form titled Certification of Notice to Administrator of Medicaid Estate Recovery Program (Form 7.0), with the signed “green card” and copy of that notice attached.
- Social Security and VA benefits. Consider contacting the Social Security Administration or the Veteran’s Administration to determine whether benefits are payable to the probate estate as the result of the Decedent’s death.
- Estate Checking Account. To better account for any payments received by the probate estate (such as uncashed checks, last wages, deposit refunds, tax refunds, death benefits, etc.), and any payments made by the probate estate to pay costs and expenses, creditors (including tax authorities), surviving spouse or minor children, or Beneficiaries or Heirs, we recommend that the Estate Representative establish an estate checking account. If so, that account should be used solely to receive and make payments. Consider hiring an accountant or an attorney to advise you as to the best use of an estate checking account and to account for income and disbursements.
- Creditor Concern. If the value of the probate assets justify the filing of an Application for Summary Release from Administration” (Form 5.10), then creditors have no claim, and need not be listed or notified. However, consider whether to wait six months following the Decedent’s date of death before filing the Application for Summary Release from Administration” (Form 5.10). Please review the probate information sheet titled “Creditor Rights.” You may discover additional Probate Property after you decide to file an “Application for Summary Release from Administration” (Form 5.10), and the value of the Newly Discovered Assets could exceed the amount permitted by a Summary Release, thus requiring a Release from Administration or a Full Administration.

LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND THE DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT’S FORMS, BE AWARE THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEAUGA COUNTY PROBATE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.

¹⁸ R.C. 2117.061(B)(2).