INSTRUCTIONS FOR SUMMARY RELEASE OF ADMINISTRATION

ALL FORMS MUST BE TYPEWRITTEN

These instructions are being provided as a public service of the Butler County Probate Court, and are intended as a guideline only. Depending on the circumstances of each case, additional steps may be required that are not listed below.

Please review the Summary Release packet. The clerks are not attorneys and therefore cannot answer legal questions, assist you in completing the forms, or deciding which forms apply to your situation.

The documents that you file *must* be typewritten, legible, *AND* completed in their entirety. (Forms on our web site may be filled in prior to printing). Illegible or incomplete documents may be refused for filing or if filed could result in your application being denied, delayed or dismissed.

A Summary Release of Administration may be filed if either of the following applies:

1. There is a Surviving Spouse and

a. He/She is entitled to one hundred percent of the allowance for support under §2106.13(B) of the Ohio Revised Code.
b. The decedent's burial expenses have been prepaid or the surviving spouse has paid or is obligated in writing to pay the decedent's funeral and burial expense.
c. The value of the assets do not exceed $45,000.

2. There is no Surviving Spouse and

a. The applicant has paid or is obligated in writing to pay the decedent's funeral and burial expenses including a person described in Section §2108.89 of the Ohio Revised Code.
b. The value of the assets is the lesser of $5,000 or the amount of the decedent's funeral and burial expenses.

A deposit of $160.00 is required at the time of filing. Please confirm the amount with the clerk since filing fees may have changed subsequent to the publication of this instruction sheet. This fee must be paid in cash, check, or money order made payable to Butler County Probate Court. Credit and/or Debit cards are not currently accepted. **After the application is filed, your filing fees will *not* be refunded.**

NOTE: If there is real estate passing through Probate Court, Butler County ***requires that an attorney examine the real estate records*** and complete BCPC Form 462 (Statement of Counsel Concerning Examination of Record Title) certifying that the owner's name, interest shown on the application, and the legal description are correct.

LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO. 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 DESIRE TO AVOID COSTLY ERRORS, MOST INDIVIDUALS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT'S FORMS, YOU ARE EXPECTED TO BE ABLE TO READ, UNDERSTAND AND FOLLOW THE OHIO REVISED CODE, RULES OF SUPERINTENDENCE, LOCAL RULES OF THIS COURT AND THE OHIO RULES OF CIVIL PROCEDURE. PLEASE BE ADVISED THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE BUTLER COUNTY PROBATE COURT FROM PROVIDING YOU WITH LEGAL ADVICE OR ASSISTING YOU IN THE SELECTION OR PREPARATION OF LEGAL FORMS. IF YOU NEED ADDITIONAL ASSISTANCE, YOU WILL NEED TO CONTACT AN ATTORNEY OF YOUR CHOOSING.

Not all assets of a decedent must pass through Probate. As the applicant, it is your responsibility to determine what the asset(s) are and the value of those asset(s). The type and/or amount of the asset(s) will determine what type of estate you must file.

Once you have determined what assets must pass through Probate, you will need to determine the date of death value for those assets:

- **Bank Accounts** - Use the date of death balance. If the account is a checking account, be sure you deduct the amount of any outstanding checks.
- **Stocks & Bonds** - Use the closing value for the date of death. If the person died over the weekend, use the opening value for Monday morning.
- **Real Estate** - You may either use the 100% tax value from the auditor's records or have it appraised. If you choose to have it appraised or if the Court orders that you have it appraised, you must use an appraiser named on the Approved Appraiser List. You may obtain the list by downloading it from this website.
- **Motor Vehicles** - Either use the blue book value or have a local dealership write out an appraisal for you.
- **Business/Partnership** - You must have it appraised using an appraiser named on the Approved Court Appraiser list. You may obtain the list by downloading it from this website.

Certain assets of the decedent may be transferred by contract, such as joint and survivorship property, payable on death (POD) accounts, transfer on death (TOD) property, and most life insurance or retirement benefits. These are non-probate and therefore are not always required to be included in the application for summary release. If you have questions about an asset, or whether to include it, you will need to consult with an attorney of your choosing.

Property that must be included in probate and property that is subject to estate taxes are two different matters. Even if property is not included in probate, it still may be subject to federal or Ohio estate taxes. To determine this, you would need to consult with an attorney of your choosing.

If the decedent was a recipient of Social Security, railroad benefits, or any other pension plan, you must notify the agency or entity directly.

If you choose to submit a summary release, you will need to complete and present the following documents and forms:

- ***Original Last Will and Testament (if the decedent had created one)***
- ***Application for Summary Release of Administration (Form 5.10)***
  [R.C. 2113.031]
  - Complete both sides of this form in its entirety and have your signature notarized prior to filing it with the Court.
  - The Court requires that in place of ***any*** account numbers or other personal identifiers on the Application for Summary Release of Administration, the applicant or attorney replace those numbers with non-identifiers such as "Bank Name – Savings Account A" and complete BCPC 45D (Confidential Disclosure of Personal Identifiers).
  - All names and addresses must be complete; P.O. boxes are not permitted.
  - If you are using the Auditor's Tax Value for Real Estate, you must attach a printout from the Auditor's office to your Application.
  - If you are having the Real Estate appraised, you must use an appraiser approved by the Court. The list of approved appraisers is available on this website.
  - Attach a copy of the blue book value or appraisal, if obtained, for any motor vehicles that are included on the application.
  - You must provide the Court with the original and one copy of the Application for Summary Release of Administration.
- ***Confidential Disclosure of Personal Identifiers (BCPC 45(D))***
  EFFECTIVE JULY 1, 2009
  [Rule 45(D) of the Rules of Superintendence for the Courts of Ohio]
  - This form is to be attached to all filings that would normally contain personal identifiers, such as a Social Security number, account number, credit card, loan, or policy numbers.
  - When completing this document you must list the full identifying number, the abbreviation that you used on the Court document (*i.e.* Savings Account "A"), the Name/Institution associated with the identifying number, and the form number.
  - Failure to complete and file this form could result in your documents being returned to you for correction.
- ***Surviving Spouse, Next of Kin, Legatees & Devisees (Form 1.0)***
  - List all *next of kin* on page 1 of Form 1.0 who are or would be entitled to inherit if the decedent died without a Will and list those people named in the Will, if there is one, on page 2 of Form 1.0.
  - All names and addresses must be complete; P.O. boxes are not permitted.
  - You must list the date of birth for any minors.
- ***Statement of Permanent Address (BCPC 721)***
  [RC 2109.21(F)]
  - Every fiduciary must complete and sign a Statement of Permanent Address and notify the Court of any changes.
  - Failure to comply could result in your removal as fiduciary.
- ***A copy of the paid funeral bill or a signed contract for funeral expenses***
  - The receipt or funeral bill must indicate who paid the bill or the person responsible for payment if not paid in full.
  - If there is a surviving spouse, the funeral bill must have been paid by the spouse or prepaid by the decedent.
  - If there is no surviving spouse, the applicant must have paid or be obligated in writing to pay the funeral expenses.
- ***Entry Granting Summary Release of Administration (Form 5.11)***
  - The Magistrate or Judge will review the paperwork after it is filed. Once it is reviewed, one of the clerks will contact you.
  - In most cases, you will need one certified copy of the proceedings. If you think you will need additional copies, please inform the clerk at the time of filing.

- ***Application and Entry Transferring Motor Vehicle (BCPC 414)***
  - Complete form in duplicate if there is a motor vehicle or any other title to personal property that must be transferred such as a boat or mobile home.
- ***Statement of Counsel Concerning Examination of Record Title (BCPC 462)***
  - An ***attorney*** *must examine the record title to all real estate* included in the Application for Summary Release and complete, in its entirety, BCPC 462.
- ***Application for Certificate of Transfer (Form 12.0)***
  - Must be completed if there is real estate included on the Summary Release.
  - Certificate of Transfer (Form 12.1) must accompany the Application for Transfer.
- ***Certificate of Transfer (Form 12.1)***

  [R.C. 2113.61]
  - Complete form in duplicate if there is real estate included on the Application for Summary Release (Form 5.10).
  - List each beneficiary's name, address, and the fractional interest that the beneficiary is receiving.
  - Page 2 of this form must contain the entire legal description *and* parcel ID.
- ***Ohio Estate Taxes***

  [R.C. 5731.23]
  - *If date of death is between 1/1/2001 and 12/31/2001 and gross estate is under $200,000, a return is not required to be filed. A Form 22 Certificate of Estate Tax Payment and Real Property Disclosure is filed instead with Probate Court only (Form 22 is available on our website).*
  - *If date of death is on or after 1/1/2002 and gross estate is under $338,333 a return is not required to be filed. A Form 22 Certificate of Estate Tax Payment and Real Property Disclosure is filed instead with Probate Court only.*
  - Obtain tax forms and instructions at the Ohio Dep't of Taxation website: http://dw.ohio.gov/tax/dynamicforms/.
  - Forms must be filed in duplicate with original signatures – one copy will stay with Probate Court and one copy must be taken to Auditor's office.
  - If taxes are owed, you will need to complete and file in duplicate Ohio Estate Tax Form 5.

<u>Additional Information:</u>

- If you are transferring a mobile home, you will need to take a certified copy of the Transfer of Motor Vehicle (BCPC 414) to the Treasurer's Office with a completed "Mobile Home Processing Document in Lieu of Title" form which is available from the Butler County Auditor's Office, 130 High Street Hamilton, OH.
- If you are transferring a motor vehicle or boat, you will need to take a certified copy of the Transfer of Motor Vehicle (Form 414) to the Clerk of Court's Title Division with the title.
- If you are transferring Real Estate, you will need to take a certified copy of the Certificate of Transfer (Form 12.1) to the Auditor's Office and obtain a conveyance form prior to taking it to the Recorder's Office.