

Set Your House in Order

Definitions & Terms



Ancillary Probate

An additional, simultaneous probate process that's required when a decedent owned real estate or tangible personal property in another state or states. The laws of a state where property is physically located typically govern what happens to that property when the owner dies—not the laws of the state where the decedent lived at the time of death.

Durable Power of Attorney

A legal document that lets you designate another person, called an agent or attorney-in-fact, to act on your behalf with regard to specific financial decisions. "Durable" refers to the fact that the agent retains this authority even if the person who created the durable power of attorney becomes incapacitated. Your agent's power ends when you pass away and will transition to the will executor.

Executor of Estate (or Personal Representative)

A person you appoint who is responsible for carrying out the legal and financial wishes stated in your will, including the payment of debts, sale of assets, and distributions to beneficiaries. This person plays the same role as an administrator if you pass away without a valid will.

Guardian

A person appointed by a parent who attends to the care of their minor children if the parent passes away. At minimum, this includes health and living affairs. Depending on whether a separate financial guardian is appointed, this would also include financial affairs.



Guardian Successor (Alternate Guardian)

An adult identified by a parent who will assume care and responsibility for children if the original caregiver is no longer able to care for the child.

Living Will

A legal document detailing a person's wishes for end-of-life healthcare, in case the person is unable to communicate those wishes in the future.

Medical Power of Attorney

A legal document that lets you designate another person, called an agent or attorney-in-fact, to act on your behalf with regard to specific healthcare decisions. Oftentimes, a durable healthcare power of attorney is included in a comprehensive Advance Healthcare Directive. "Durable" refers to the fact that the agent retains this authority even if the person who created the durable power of attorney becomes incapacitated. Your agent's power ends when you pass away.

Probate

A court-supervised process that determines whether a will is valid and supervises the executor in carrying out the testator's legal and financial wishes. Usually this includes a court hearing to establish the testator's passing and residency, the genuineness of the will, its conformance with statutory requirements for its execution, and the competency of the testator at the time the will was made. During probate, the court will also decide on whether any valid challenges to the will exist.



Trust

A legal agreement between three parties: a grantor, a trustee, and a beneficiary or beneficiaries. The grantor can be also the trustee and/ or a beneficiary, but a beneficiary other than the grantor must also be appointed. Oftentimes a trust provision is added to a will when someone wants additional flexibility on how assets are treated after they pass away.

Trustee

A person or institution who is responsible for managing any property or assets a grantor transfers into and titles in the name of the trust. The trustee has duties to be loyal, be prudent, be impartial, and to inform the beneficiaries of the trust. The trustee can be the grantor and/ or a beneficiary of a trust in addition to the trustee role.

Will

A legal document that contains the legal and financial wishes of a person when they pass away.