

Guidelines for Starting
FULL ESTATE PROCEDURES
APPLICATION FOR PROBATE & LETTERS
◆TESTATE◆

This Packet Contains: Application for Probate and Letters, Instruction Sheet, Oath, Resident Process Agent form, and Renunciation of Right to Qualify form

Fillable forms are available online at www.nccourts.org. Click “forms” and enter the form numbers below (all forms begin with AOC-E-__).

➤NOTE: Additional forms may be required to begin the qualification process and will be determined based upon the circumstances.

READ FORMS CAREFULLY AS THEY CONTAIN INSTRUCTIONS AND INFORMATION NECESSARY IN THIS PROCESS.

Application for Probate and Letters is available when...

The personal representative (executor/executrix) named in the will wishes to be qualified and appointed over an estate.

⊕STEPS FOR QUALIFICATION...

1. Fill out the Application for Probate and Letters (AOC-E-201)
2. Oath form (AOC-E-400) – Prepared in front of a notary or Deputy Clerk
3. If you are *not* a North Carolina resident, complete the Resident Process Agent form (AOC-E-500) appointing a North Carolina resident who will act as your representative for Court service. The appointed agent must sign the document in front of a notary.
4. Beneficiaries must be listed on the form with the full names and addresses (no social security numbers required)
5. Renunciation of Right to Qualify (AOC-E-200) This form is used if the named personal representative in the will does not wish to serve in this capacity
6. Original Will
7. Death Certificate
8. Court Filing Fee \$120 (Acceptable Forms: cash, certified check, or money order)
9. A surety bond might be necessary based upon the personal representative particulars or if there is a minor or legally incompetent beneficiary

EXPLANATION OF TERMS:

- **Decedent:** Individual who passed away.
- **Applicant:** Someone who is applying for the position of personal representative (executor/executrix).
- **Testate:** The decedent died leaving a Last Will & Testament.
- **Heir/Beneficiary:** A person who inherits or is entitled by law or by the terms of a will to inherit the estate of another
- **Qualification:** The possession by an individual of the qualities, properties, or circumstances which render him/her eligible to perform a duty or function.
- **Oath:** A form of attestation by which a person signifies that he/she is bound in conscience to perform an act faithfully and truthfully.
- **Renunciation:** The act of voluntarily declining to take up the duties of the office of executor/executrix to handle the distribution of estate assets.
- **Resident Process Agent:** The North Carolina resident selected by the out-of-state applicant to accept mail and other service of process regarding estate matters.
- **Surety Bond:** Written guaranty or pledge which is purchased from a bonding company (usually an insurance firm) to guarantee some form of performance. If there is a failure, the bonding company will make good up to the amount of the bond.

Completed filings should be submitted to the Clerk of Court of Mecklenburg County
Estates Division – Suite 3720 - Mecklenburg County Courthouse – 832 E. 4th Street, Charlotte NC 28202
To file via mail: Mecklenburg County Clerk of Superior Court, Attn Estates, PO Box 37971, Charlotte NC 28237
Estates Phone Number: 704-686-0460

(TYPE OR PRINT IN BLACK INK)

STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice
Superior Court Division
Before The Clerk

County

IN THE MATTER OF THE ESTATE OF:

Name, Street Address, City, State And Zip Code Of Decedent

Social Security No. (Last Four Digits)

County Of Domicile At Time Of Death

Date Of Death

Date Of Will And Codicil(s) If Any

Place Of Death (If Different From County Of Domicile)

Name, Street Address, PO Box, City, State And Zip Code Of Applicant

Name, Street Address, PO Box, City, State And Zip Code Of Co-Applicant

Telephone No.

Telephone No.

Legal Residence (County, State)

Legal Residence (County, State)

Name, Street Address, PO Box, City, State And Zip Code Of Attorney

Attorney Bar No.

Telephone No.

APPLICATION

FOR PROBATE AND LETTERS

TESTAMENTARY OF ADMINISTRATION CTA

G.S. 28A-6-1; 28A-12-4; 31-16; 105-22

I, the undersigned, applying for probate and for letters in the above estate, being first duly sworn, say that:

- 1. The decedent was domiciled in this county at the time of the decedent's death...
2. The decedent left the paper-writing(s) purporting to be the decedent's Last Will and Testament...
3. a. I am an executor, devisee or legatee named in the will...
b. I am the person entitled to apply for letters...
c. I am applying subject to G.S. 28A-6-2(1)...
d. I am the public administrator appointed by the Court.
4. I am not disqualified pursuant to G.S. 28A-4-2...
5. Following the execution of the will there were no children born to or adopted by the decedent...
6. After diligent inquiry, I have determined that the persons listed below are all the persons entitled to share in the decedent's estate.

Table with 4 columns: NAME, AGE, RELATIONSHIP, MAILING ADDRESS. Multiple empty rows for listing beneficiaries.

PRELIMINARY INVENTORY

(Give values as of date of decedent's death. Continue on separate attachment if necessary.)

PART I. PROPERTY OF THE ESTATE

	Est. Market Value
1. Accounts in sole name of decedent <i>(List bank, etc., each account no. and balance.)</i>	\$
2. Joint accounts <u>without</u> right of survivorship <i>(List bank, etc., each account no., balance and joint owners.)</i>	
	% Owned By Dec.
	% Owned By Dec.
	% Owned By Dec.
	% Owned By Dec.
3. Stocks/bonds/securities in sole name of decedent or jointly owned <u>without</u> right of survivorship.....	% Owned By Dec.
4. Cash and undeposited checks on hand.....	
5. Household furnishings.....	
6. Farm products, livestock, equipment and tools.....	
7. Vehicles.....	
8. Interest in partnership or sole proprietor businesses.....	
9. Insurance, Retirement Plan, I.R.A., etc., payable to Estate.....	
10. Notes, judgments, and other debts due decedent.....	
11. Miscellaneous personal property.....	
12. Real estate willed to the Estate.....	\$
13. Estimated annual income of Estate.....	

(Base bond on this amount, if applicable.) **TOTAL PART I.** ▶ \$

PART II. PROPERTY WHICH CAN BE ADDED TO ESTATE IF NEEDED TO PAY CLAIMS

1. Joint accounts with right of survivorship <i>(List bank, etc., each account no., balance & joint owners.)</i>	\$
2. Stocks/bonds/securities registered in beneficiary form and immediately transferred on death or jointly owned with right of survivorship.....	
3. Other personal property recoverable (G.S. 28A-15-10).....	
4. Real estate owned by decedent and not listed elsewhere.....	

TOTAL PART II. ▶ \$

PART III. OTHER PROPERTY

1. There <input type="checkbox"/> is <input type="checkbox"/> is not entireties real estate owned by decedent and spouse	
2. There <input type="checkbox"/> are <input type="checkbox"/> are not Insurance, Retirement Plan, I.R.A. accounts, annuities etc., payable to named beneficiaries.....	
3. There <input type="checkbox"/> is <input type="checkbox"/> is not a potential claim for wrongful death arising under G.S. 28A-18.2.....	

<i>Signature Of Applicant</i>	<i>Signature Of Co-Applicant</i>
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SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME	
<i>Date</i>	<i>Signature Of Person Authorized To Administer Oaths</i>	<i>Date</i>	<i>Signature Of Person Authorized To Administer Oaths</i>
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court		<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court	
<input type="checkbox"/> Notary	<i>Date Commission Expires</i>	<i>Date Commission Expires</i>	<input type="checkbox"/> Notary
SEAL	<i>County Where Notarized</i>	<i>County Where Notarized</i>	SEAL

INSTRUCTIONS FOR PRELIMINARY INVENTORY
ON SIDE TWO OF APPLICATION FOR PROBATE AND LETTERS,
FORM AOC-E-201, REV. 4/11

THE CLERK IS THE JUDGE OF PROBATE AND CANNOT PRACTICE LAW OR GIVE LEGAL ADVICE. ACCORDINGLY, THE CLERK'S STAFF CANNOT HELP YOU FILL OUT THIS FORM. PARTS OF THIS FORM ARE SELF-EXPLANATORY. HOWEVER, FOR ANY NECESSARY ASSISTANCE, YOU SHOULD CONSULT AN ATTORNEY.

Application For Probate And Letters Testamentary Or Letters Of Administration CTA, Form AOC-E-201, Rev. 4/08

If the decedent left a will, the person named as executor in the will may qualify by applying to the Clerk of Superior Court using this form. Side two of this form contains a preliminary listing of the assets of the estate. This part of the form is intended as a preliminary report to the clerk, heirs and creditors of the nature and probable value of the property, real and personal, wherever located, owned by the decedent as of the date of death.

General Instructions:

Type or print neatly in **black ink**.

All values reported should be the **fair market value** of the item **as of the date of death**. If there is not sufficient space on the form, continue on a separate attachment.

Except where instructed to itemize, you should report in a lump sum the estimated total value of all property in each category. A complete itemization and valuation of decedent's property must be listed on the Inventory Form (AOC-E-505) and filed with the clerk within three months after qualifying.

- l "Account" includes accounts in banks, savings and loans and other financial institutions, including money market accounts with brokerage houses or similar institutions.
- l "Joint Account With Right Of Survivorship" is an account in the name of two or more persons in which the deposit agreement (1) is signed by all parties and (2) expressly provides that, upon the death of one of the joint depositors, the interest of the decedent passes to the survivor(s). Any joint account which is not "with right of survivorship" is a joint account **without** right of survivorship.
- l "Stocks Or Bonds With Right Of Survivorship" are securities in which the certificate clearly states that upon the death of one of the joint owners the interest of the decedent passes to the survivor(s). Any jointly owned security which is not owned "with right of survivorship," is owned **without** right of survivorship.
- l "Securities Registered In Beneficiary Form" means stocks, bonds, or other securities officially registered with the issuer of the security indicating the current owner of the security and the person who will automatically become the new owner of the security upon the death of the owner." (See G.S. 41-40 et. seq.)

PART I. PROPERTY OF THE ESTATE

1. Deposits In Sole Name Of Decedent - For each account, list the name of the institution, the account number and the balance on the date of death.
2. Joint Accounts Without Right Of Survivorship - For each account, list the name of the institution, the account number, and the name(s) of the other joint owner(s). If the percentage owned by the decedent can be determined, report that percentage and the value of that percentage on deposit on the date of death. If the percentage owned by the decedent is unclear, report the percentage as 100%, and list the total amount on deposit on the date of death. A copy of the signature card or depository contract should be attached either to this form or the inventory (AOC-E-505.)
3. Stocks And Bonds In Sole Name Of Decedent Or Jointly Owned Without Right Of Survivorship - If the percentage owned by the decedent can be determined, report that percentage and the value, in a lump sum, of that percentage. If the percentage owned is unclear, report the percentage as 100%, and list the total value, in a lump sum, of all such stocks and bonds. A detailed itemization of these assets must be reported in the Inventory (AOC-E-505).
4. through 7. These categories should be self-explanatory.
8. Interest in Partnership Or Sole Proprietor Businesses - Report all solely owned business interest and all partnerships in which the decedent was a general or limited partner. List the name of the business or partnership, the names of the surviving partners, the decedent's percentage interest in that partnership, and the value of that partnership interest or business.
9. through 11. These categories should be self-explanatory.
12. Real Estate Willed To The Estate - (**NOTE: Real property willed to any person or entity other than the estate must be reported in Part II, Item 4**) List only real estate which the decedent devised (willed) to the estate or to the executor in the capacity as executor (not as an individual). Usually, such a devise is accompanied by a direction to sell the real estate and distribute the proceeds as specified in the will.
13. Estimated Annual Income Of The Estate - Income of the estate includes, for example, interest on checking and other accounts opened in the name of the estate, dividends and interest on stocks and bonds owned in the name of the estate, and other income to the estate. Income of the estate does not include interest on accounts, or dividends or interest on stocks or bonds, which pass directly to a surviving joint owner.

PART II. PROPERTY WHICH CAN BE ADDED TO ESTATE IF NEEDED TO PAY CLAIMS

This part of the form is used to list certain kinds of property which the decedent owned or in which the decedent had an interest during his or her life time, which are not ordinarily part of the estate, but which may be recovered by the personal representative if the assets of the estate are not sufficient to pay all the debts of the decedent and claims against the estate. (NOTE: *The personal representative should NOT receive or disburse any personal property in this category prior to meeting all statutory requirements for bond or bond increases.*)

1. **Joint Accounts With Right Of Survivorship Under G.S. 41-2.1** - List all joint accounts with right of survivorship. For each account, list the name of the financial institution, the account number, the names of the other joint owners, and the total balance on the date of death. Attach a copy of the signature card or depository contract for each such account to this form or to your Inventory (AOC-E-505).
2. **Stocks/ Bonds/Securities Registered In Beneficiary Form or Jointly Owned With Right Of Survivorship** - A lump sum total of the value of all such stocks or bonds should be reported here. A detailed itemization of these assets must be reported in the Inventory (AOC-E-505). It also includes securities registered in beneficiary form and automatically transferred on death.
3. **Other Personal Property Recoverable Under G.S. 28A-15-10** - This category includes accounts which are called "Payable On Death or Trustee Accounts" in the signature card or deposit agreement or in which the decedent otherwise established a "Tentative" or "Totten" trust. It also includes property which the decedent gave to someone in contemplation of the decedent's own death, and property transferred by the decedent, without receiving adequate consideration, with the intent to hinder, delay or defraud the decedent's creditors. If you believe there may be any property which falls into these latter categories, you may wish to consult an attorney.
4. **Real Estate Owned By The Decedent And Not Listed Elsewhere** - (NOTE: *Real estate owned by the decedent and spouse as tenants by the entirety should be reported in Part III. Do not report real estate in which the decedent had an interest only for his or her lifetime.*) All other interests in real estate owned by the decedent should be reported here in a lump sum using fair market values as of date of death. A more detailed listing and identification of the properties should be made in the Inventory (AOC-E-505).

PART III. OTHER PROPERTY

This part of the form is used to indicate certain property, rights and claims which are not administered by the personal representative as part of the decedent's estate and which the personal representative can not generally recover to pay debts of the decedent or claims against the estate. However, this property may be included in the value of the "estate" for federal or state estate and inheritance tax purposes, or which are listed for the information of heirs and others to whom the property may pass.

1. **Entireties Real Estate** - Indicate whether or not there is real estate jointly owned by the decedent and his or her surviving spouse as tenants by the entireties.
2. **Insurance, Retirement Plan, IRA, Annuities, Etc., Payable To Persons Other Than the Estate** - This category includes all life insurance proceeds, death benefits under pension and retirement plans, the balance remaining in IRA, annuities, 401(k) and other similar accounts which, at the death of the decedent, pass to a beneficiary **other than** the estate.
3. **Claim For Wrongful Death** - This category is for cases in which the death of the decedent was caused by the wrongful act, neglect or default of another, who may be liable in action for damages brought by the personal representative. The potential existence of a claim for damages should be reported here. [NOTE: (a) *The personal representative should NOT receive or disburse wrongful death proceeds prior to meeting all statutory requirements for bond or bond increases.* (b) *Any recovery is not subject to the claims of creditors except for burial expenses of the decedent, reasonable hospital and medical expenses incident to the injury resulting in death and not totalling over \$4,500 (but not over 50%) of the damages recovered after deducting attorneys fees, and Medicaid claims.* (c) *The proceeds of the recovery must be distributed by the personal representative in accordance with the Intestate Succession Act, regardless of the existence or terms of any will.* (d) *Except for payment of the expenses expressly allowed by statute, the personal representative must not comingle wrongful death proceeds with assets of the estate. The personal representative must file a separate accounting with the clerk of superior court regarding any and all wrongful death proceeds. If you believe there may be a wrongful death claim, consult an attorney.*]

SIGNATURE - All applicants must sign. The signature of each must be separately notarized before a notary public or acknowledged before the clerk, assistant, or deputy.

STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice
Superior Court Division
Before The Clerk

County

IN THE MATTER OF THE ESTATE OF:

Name Of Decedent/Minor/Incompetent/Trust

OATH/AFFIRMATION

N.C. Constitution, Art. VI., Sec. 7; G.S.11-7, 11-11; 28A-7-1

I, the undersigned, do solemnly swear affirm that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; and that I will faithfully discharge the duties of my office as indicated below; so help me, God. and this is my solemn affirmation.

(check office below)

OATH OF ADMINISTRATOR

I swear affirm that I believe that the above named decedent died without leaving any Last Will and Testament; that I will well and truly administer all and singular the goods and chattels, rights and credits of the deceased and a true and perfect inventory thereof return according to law; and that all other duties appertaining to the charge reposed in me, I will well and truly perform, according to law and with my best skill and ability; so help me, God. and this is my solemn affirmation.

OATH OF EXECUTOR

I swear affirm that I believe this paper writing to be and contain the Last Will and Testament of the above named decedent; and that I will well and truly execute the same by first paying the decedent's debts and then the decedent's legacies; as far as the said estate shall extend or the law shall charge me; and that I will well and faithfully execute the office of an executor, agreeably to the trust and confidence reposed in me, and according to law; so help me, God. and this is my solemn affirmation.

OATH OF ADMINISTRATOR CTA

I swear affirm that I believe this paper writing to be and contain the Last Will and Testament of the above named decedent; and that I will well and truly execute the same by first paying the decedent's debts and then the decedent's legacies, as far as the said estate shall extend or the law shall charge me; and that I will well and faithfully execute the office of an administrator cta to the best of my skill and ability and according to the law; so help me, God. and this is my solemn affirmation.

OATH OF FIDUCIARY

I swear affirm that I will faithfully and honestly discharge the duties reposed in me according to the best of my skill and ability, and according to law; so help me, God. and this is my solemn affirmation.

Name Of Fiduciary 1

Name Of Fiduciary 2

Signature Of Fiduciary

Signature Of Fiduciary

SWORN AFFIRMED AND SUBSCRIBED TO BEFORE ME

SWORN AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date

Signature Of Person Authorized To Administer Oaths

Signature Of Person Authorized To Administer Oaths

Deputy CSC Assistant CSC Clerk Of Superior Court

Deputy CSC Assistant CSC Clerk Of Superior Court

Notary

Date My Commission Expires

Date My Commission Expires

Notary

SEAL

County Where Notarized

County Where Notarized

SEAL

STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice
Superior Court Division
Before The Clerk

_____ County

IN THE MATTER OF THE ESTATE OF:

Name Of Decedent/Incompetent

**APPOINTMENT OF
RESIDENT PROCESS AGENT**

G.S. 28A-4-2(4); 35A-1213(b)

I, the qualified personal representative or guardian of the above named estate, submit to the jurisdiction of the North Carolina Courts in the above captioned matter, and appoint the resident process agent named below on whom may be served citations, notices and processes in all actions or proceedings with respect to this estate.

Name, Street Address, PO Box, City, State And Zip Code Of Resident Process Agent

Date

Name Of Personal Representative Or Guardian (Type Or Print)

Telephone

County Of Residence

Signature Of Personal Representative Or Guardian

ACCEPTANCE OF APPOINTMENT

I accept this appointment as resident process agent for the above named personal representative or guardian, and agree to notify the personal representative or guardian of all citations, notices and processes served on me as his resident process agent.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

Date

Name Of Resident Process Agent (Type Or Print)

Signature Of Person Authorized To Administer Oaths

Signature Of Resident Process Agent

Deputy CSC *Assistant CSC* *Clerk Of Superior Court*

Notary

Date My Commission Expires

SEAL

County Where Notarized

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice
Superior Court Division
Before the Clerk

IN THE MATTER OF THE ESTATE OF:

Name Of Decedent

**RENUNCIATION OF RIGHT TO QUALIFY
FOR LETTERS TESTAMENTARY
OR LETTERS OF ADMINISTRATION**

G.S. 28A-5-1, -2

To The Clerk Of Superior Court:

- 1. The undersigned hereby renounces the right to qualify as executor of the estate of the above named decedent.
- 2. The undersigned hereby renounces the right to administer the estate of the above named decedent and respectfully asks that the following nominee be appointed administrator of the estate.

Name Of Nominee

<i>Date</i>	<i>Date</i>
<i>Name Of Person Renouncing (Type Or Print)</i>	<i>Name Of Witness (Type Or Print)</i>
<i>Signature Of Person Renouncing</i>	<i>Signature Of Witness</i>

<i>Date</i>	<i>Date</i>
<i>Name Of Person Renouncing (Type Or Print)</i>	<i>Name Of Witness (Type Or Print)</i>
<i>Signature Of Person Renouncing</i>	<i>Signature Of Witness</i>

<i>Date</i>	<i>Date</i>
<i>Name Of Person Renouncing (Type Or Print)</i>	<i>Name Of Witness (Type Or Print)</i>
<i>Signature Of Person Renouncing</i>	<i>Signature Of Witness</i>

<i>Date</i>	<i>Date</i>
<i>Name Of Person Renouncing (Type Or Print)</i>	<i>Name Of Witness (Type Or Print)</i>
<i>Signature Of Person Renouncing</i>	<i>Signature Of Witness</i>