

Information & Instructions: ~~What does it mean to probate a will~~

PREVIEW

1. The purpose of probating a will is to give legal effect to the decedent's last will and testament and to transfer title in all property owned by the decedent at his or her death.

a. Probating a will secures court approval of the validity of the will and allows the will to be filed in the county records, which in turn permits title to the decedent's property to be passed.

2. If a will is not probated within four years of the date of death, the court may refuse to admit the will to probate unless good cause is shown for the delay.

3. Pursuant to Texas Probate Code Section 73, a will has no legal effect and will not transfer title to property unless it has been admitted to probate.

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4. Clients frequently believe that possession of a will, regardless of whether or not it has been probated, is sufficient to pass legal title to the decedent's property. This is not so. Accordingly, the attorney should stress the importance of probating a decedent's will within the required four-year period.

5. Administration of an Estate is the process of satisfying the decedent's debts, collecting the assets and distributing them to the decedent's heirs. Administration occurs after a will is admitted to probate and the court issues letters testamentary to the executor of the will.

6. See the sections of the Texas Probate Code for statutory authority applicable to the probate of wills, probate procedure, and administration.

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