



Probate: Self-Help Guide Intestate Administration

St. Croix

Mailing Address:

Post Office Box 929
Christiansted, USVI 00821

Physical Address

Superior Court of the
Virgin Islands
R.H. Amphlett Leader
Justice Center
RR1 9000
Kingshill, USVI 00850

(340) 778-9750

St. Thomas

Mailing Address:

Post Office Box 70
St. Thomas, USVI 00804

Physical Address

Superior Court of the
Virgin Islands
Alexander A. Farrelly Justice Center
Barbel Plaza South
Parcel No. 8A, Estate Ross
No. 8 Kings Quarter
Charlotte Amalie, St Thomas 00802

(340) 774-6680

www.vicourts.org

Table of Contents

THE PURPOSE OF THIS SELF-HELP GUIDE	1
Disclaimer	1
Jurisdiction	1
Contact with the Superior Court	1
Americans with Disabilities Act	2
STEP 1: BEGINNING THE PROBATE	3
Petition for Summary Administration.....	3
• Original Documents	3
Required Redactions: Rule 15(C)	4
• Beneficiaries.....	4
• Inventory	4
• Motion for Appointment of a Guardian	4
STEP 2: DOCKETING THE PROBATE	4
Filing Requirements	4
Electronic Docket	5
STEP 3: AFTER FILING YOUR PETITION	5
Creditor Claims	Error! Bookmark not defined.
STEP 4: THE COURT’S DECISION	6
STEP 5: AFTER THE COURT’S DECISION	6
Important Terms	6
Frequently Asked Questions - Probate Division	7
What is Probate?	7
Why is probate necessary?	7
When should you file a probate petition?	7
What are the filing fees associated with filing a probate petition?	7
What documents do I need to support a Probate Petition?	7
If a family member dies, how do I get their property transferred to the person who is entitled to receive it?	7
I have a question about my case. Who do I ask?	7
How do I “e-file” documents?	7
What if I don’t have access to a computer?	8
Five Types of Probate Petitions	8
COURT FEES RELATED TO PROBATE	8
FORMS	Error! Bookmark not defined.
PETITION FOR SETTLEMENT WITHOUT ADMINISTRATION	FORM #1
WAIVER AND CONSENT	FORM #2
INVENTORY	FORM #3

NOTICE TO CREDITORS AND DEBTORS..... FORM #4
PROOF OF PUBLICATION OF NOTICE TO CREDITORS AND DEBTORS..... FORM #5
FINAL JUDGMENT..... FORM #6

THE PURPOSE OF THIS SELF-HELP GUIDE

There are a few different proceedings which may be filed in the Probate Court. Each case is different, so other documents may be required. Any estate where the value of the assets is less than \$100,000 may be administered in a summary manner as described in 15 V.I.C. § 191. If the person left a Will, the Will shall be proved and 'letters testamentary' will be issued. *Also available when a person dies intestate (leaving no will).* This is a basic guide for the filing of an "intestate" *Summary Administration* probate in the Superior Court of the Virgin Islands.

A person that represents himself or herself before a court is proceeding **pro se**, a Latin term meaning "for oneself." Although you can appear *pro se*, you are strongly advised to discuss the matter with an attorney who practices probate or estate law. The attorney can assist you in determining which proceeding is the most appropriate for your situation. Only an attorney that is a member of the [Virgin Islands Bar Association](#) can represent you in a probate process in the Virgin Islands. Your attorney is obligated by the Virgin Islands Supreme Court Rules of Professional Conduct to represent your interests and protect your legal rights.

Regardless of whether you have an attorney or not, **ALL PROBATES MUST COMPLY WITH THE VIRGIN ISLANDS RULES OF PROBATE AND FIDUCIARY PROCEEDINGS**. These rules are available on the Court's [website](#). You may contact the Clerk's Office for assistance.

If you proceed without an attorney, it will be your responsibility to determine or select the proceeding appropriate for your situation. The staff of the Probate Court may not make the determination or select for you, since to do so may constitute the unauthorized practice of law.

It is your responsibility to properly complete all forms. The Clerk of the Superior Court **is not engaged in the practice of law and cannot give legal advice**. Therefore, you should not ask the clerk or the clerk's staff to prepare your accounts or to advise you on the completion of forms or any legal issue. The staff is not permitted to perform clerical tasks for the public. The staff will be able to answer any basic questions about the standard forms and about any deadlines. If you need advice, you should consult an attorney, especially regarding disbursements of any funds, any questions about handling insolvent estates, or concerning taxes payable by the estate.

Disclaimer

This Self-Help Guide only describes the basic summary administration requirements and directs you to the rules that govern those requirements. This Self-Help Guide is not a complete version of the Virgin Islands Rules of Probate and Fiduciary Proceedings ([V.I.R.Prob.](#)) This guide has no legal authority nor is it a substitute for requirements found in the [V.I.R.Prob.](#)

Jurisdiction

The Superior Court has exclusive jurisdiction over the probating of wills and the administration of decedents' estates. The settlement of estates of deceased persons and fiduciary relations is governed by 15 Virgin Islands Code Ann. § 1 through § 1267. The procedures which all probate and other fiduciary matters must follow are outlined in V.I.R. Prob.

Contact with the Superior Court

All probates are filed with the Office of the Clerk of the Superior Court. You may only speak to the Superior Court about your case by contacting the Office of the Clerk of the Court. Parties cannot contact the Superior Court Magistrate Judges. The Superior Court contact information, for both the St. Croix and St. Thomas/St. John locations, can be found on the front cover of this Guide. The contact information is also available on the Judicial Branch website (www.vicourts.org).

Americans with Disabilities Act

The Superior Court of the Virgin Islands is committed to fostering compliance with the Americans with Disabilities Act and to providing services, programs and activities in a way that assures accessibility for all users of the courts, including qualified individuals with disabilities. If you need accommodation for a disability, please contact one of the ADA Coordinators listed below at least 10 working days in advance.

RR1 9000 Kingshill, USVI 00850 VI ADA Coordinator: Kevin Williams Mon. – Fri. 8:00 am – 5:00 pm Phone: (340)778-9750 TTY: (340) 778-0644	#8174 Subbase St. Thomas, VI 00802 ADA Coordinator: Koya S. Ottley Mon. – Fri. 8:00 am – 5:00 pm Phone: (340) 774-6680 TTY: (340) 693-4118
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STEP 1: BEGINNING THE PROBATE

Filing a Intestate Administration Probate means mailing, hand-delivering or electronically filing (“e-filing”) a document called a “*Petition for Administration and for Letters of Administration*” in the Superior Court and paying the docketing fee. If you do not have an attorney, you do not have to e-file. If you choose not to e-file, you will be a “conventional filer” and the rules regarding e-filing will not apply to you. To find out how to e-file, see Frequently Asked Questions (FAQ) herein: **How do I “e-file” documents?**



Petition for Administration and for Letters of Administration

The petition must be in writing setting forth in numbered paragraphs.

- 1) The residence and citizenship of the petitioner and by what right the petitioner makes application;
- 2) The date of death of the deceased person and the deceased’s last domicile;
- 3) A statement that the deceased died intestate and left no will;
- 4) The location, character, and estimated value of the estate of the deceased as nearly as the petitioner can estimate, listing separately the total value of real property and the total value of personal property;
- 5) The total amount of the debts of the deceased person as nearly as the petitioner can estimate;
- 6) The names and addresses of the heirs and next of kin of the deceased, known to the petitioner, entitled to a share of the deceased’s estate under the laws of intestacy and descent and distribution of this jurisdiction; the relation of each such person to the deceased; the proportion of the estate due each such heir or kin, and whether each such person is an adult or a minor;
- 7) the names of all heirs and next of kin that have signed a waiver or waivers consenting to the probate of the deceased’s estate and to the issuance of letters of administration to the petitioner, which waiver(s) of consent shall be affixed to the petition (**see Form #2**);
- 8) the amount of bond required of the administrator, if any.

The petition may also include

- (1) for citation against such heirs or next of kin for whom signed waivers have not been obtained prior to the filing of the petition;
 - (2) for appointment of a guardian or guardian *ad litem* for such heirs or next of kin as may be minors, persons with disabilities, incapacitated persons or protected persons, if necessary;
 - (3) for the issuance of letters of administration;
 - (4) for the fixing or waiving of bond;
 - (5) for support of the deceased’s spouse and children, if necessary;
 - (6) for such other special or general requests as the exigencies of the particular case may require.
- Original Documents required to be filed to open estate:
 - Death Certificate: an original certified copy of the death certificate; and
 - Declaration: an unsworn declaration made under penalty of perjury, or a notarized affidavit, signed by an attorney or a relative of the deceased or some other interested person.

FORM #1 shows the format that you can use to file your Petition for Administration and for Letters of Administration.

Once the petition meets the above requirements the following must also be presented:

- Beneficiaries

Required Redactions: Rule 15(C)

When filing must refrain from including, or partially redact where inclusion is necessary, the following personal information:

- Social Security Numbers (if the number is required, only the last 4 digits);
 - Names of minor children and victims of sexual assault crimes (only initials);
 - Dates of birth (if required, only the year);
 - Financial account numbers (in relevant, only the last 4 digits);
 - Home addresses (in criminal cases, if required, only the city or island).
- If any of the Beneficiaries are deceased, copies of the Death Certificates for the deceased beneficiary will need to be filed with the Court.
 - Each beneficiary must sign a waiver of consent. **See Form #2.**
- Inventory of decedent’s property, personal and real, stating the value of each item at time of decedent’s death. It must be sworn to by two (2) responsible persons. Attach a copy of the deed or other instrument showing ownership to the decedent. (15 V.I. Code Ann. § 192). **See Form #3.**
 - Motion for appointment of a guardian or guardian *ad litem* for such heirs or next of kin as may be minors, persons with disabilities, incapacitated persons or protected persons, if necessary.
 - Minor’s consent required if fourteen (14) years or older.
 - The guardian ad litem verified response to the original petition for probate of a will or administration. However, a guardian cannot accept on behalf of a minor until after an inventory and appraisal is filed. Nonetheless, minors cannot be bound to the debts of the estate beyond their net equity in the assets of the decedent’s estate.
 - File Oath of administrator **See Form #_____**
 - File proposed Order for Probate and Letters of Administration

STEP 2: DOCKETING THE PROBATE

Filing Requirements

- Mail or hand-deliver to the Superior Court or e-file the Petition in the Virgin Islands Superior Court Electronic Filing System.
- “Serve” the Petition by hand-delivering an exact copy (i.e. “personal service”) or mailing an exact copy of the Petition you filed in the Superior Court to:
 1. The heirs at law (if testate, list devisees and residuary heir).
 2. Pay the \$150.00 “Docketing Fee.”



-Or -

If you do not believe you can pay the fee, you can file an Application to Proceed “In Forma Pauperis” (Latin for: in the form of a pauper) using the Application to Proceed In Forma Pauperis form that is available on the Judicial Branch website, www.vicourts.org (go to “[For Pro Se Litigants](#)” then “Court Forms” then “Superior Court” then

“Office of the Clerk”. Double click on “[Application to Proceed In Forma Pauperis](#).” In this application you must show the Superior Court that you cannot pay for your probate filing by including:

1. An “affidavit” saying, in detail, the reasons you are unable to pay the fee.
 2. Other documentation showing your inability to pay the fee.
 3. A statement of the issues you intend to present to the Superior Court in your application.
- After you file the Petition in the Superior Court, the Superior Court Clerk’s Office will send you a “Docketing Letter and Notice of Judge Assignment.” The purpose of a Docketing Letter and Notice of Judge Assignment is to inform you that the Superior Court has received your Petition and to provide you with the Magistrate Judge and Case Number that has been assigned to your case. The case number on the docketing letter must be used in the caption of all future contact with the Superior Court.
 - If you did not pay the Docketing Fee when you filed the Petition, it will order you to pay the Docketing Fee in 5 days, or else your petition may be dismissed.
 - For all cases, the only way for any party to request anything from the Court is to file a document called a “Motion”. [V.I. Rule of Civil Procedure](#) 5 discusses the requirements for a motion. The motion must be served on all parties, so that all parties may respond to the request.

Electronic Docket

- Once the Superior Court sends you a Docketing Letter, all documents filed in your Petition will be available for you to see on the Virgin Islands Judicial Electronic Filing System, located at the Virgin Islands Judicial Branch website: www.vicourts.org.
- If you want to look at everything that has been filed in your V.I. Superior Court case, you can go to the Judicial Branch website.
 1. Once there, click on “[E-services](#).”
 2. Then under Search Cases Online click on “[Search Now](#)” and follow the instructions.

STEP 3: AFTER FILING YOUR PETITION

Citation to Heirs at Law and Next of Kin; Waiver and Notice

A citation against such heirs or next of kin for whom signed waivers have not been obtained prior to the filing of the petition

STEP 4: AFTER APPOINTMENT

- File proof of publication of Notice to Creditors and Debtors – once a week for four consecutive weeks
- Motion for appointment of two appraisers
 - may waive where inventory contains no property requiring appraisal, **if not**
 - clerk of court notifies appraisers of appointment
 - file oath of appraisers
 - make and promptly deliver preliminary inventory to appraiser
- File inventory and appraisal with Court (within one month after issuance of letters)
- File Quarterly Accounting(s)

(Every executor and administrator shall file successive, serially numbered quarterly accounts during the execution or administration of an estate for quarters ending March 31st, June 30th, September 30th, and December 31st of each year until the final account.

- Within 30 days of filing the petition for summary administration, you must publish a notice to creditors and debtor with instruction to all persons having claims against the estate to present, or deliver to the petitioner, such claim(s), verified by affidavit, to a place within the territory specified in the notice, within 30 days from the date of the notice, and that all persons indebted to the estate are required to make prompt payment to the petitioner.
 - The notice is to be published, once a week for two (2) consecutive weeks, in a newspaper of general circulation published within the territory, and in the judicial division and jurisdiction in which the deceased died or left assets. *See Forms #4.*
- Within 30 days from the last date of publication of the notice, proof of publication (see form #5) must be filed along with all claims against, and payments made to, the estate, if any, along with a proposed judgment (see Form #6).

STEP 4: THE COURT'S DECISION

The court, upon receipt of the proof of publication, claims and payments, if any, the court may issue the judgment.

STEP 5: AFTER THE COURT'S DECISION

If the judgment recognizing the persons entitled to property places them in possession of it, the property, if real estate, should be described in detail in the judgment. The judgment is to be registered with the office of the recorder of deeds of the proper judicial division of said judgment and proof provided to the Court.



Important Terms

- **Probate** is the court procedure by which a will is proved to be valid or invalid. It is the legal process wherein the estate of a decedent is administered.
- **Decedent** is a person who has died.
- **Intestate** is the legal term that refers to the estate of a deceased person who dies without leaving a will.
- **Testate** is the legal term that refers to the estate of a deceased person who leaves a will.



- **Will** is a written declaration of a person's wishes concerning the distribution of property standing in his or her name after death executed in accordance with specific legal procedures.
- **Executor** is the legal term that refers to the person named in a will to manage and settle an estate and to carry out the directions and mandates of the decedent.
- **Fiduciary** is the legal term that refers to an individual who holds property in a position of trust for another such as an executor, administrator, trustee, guardian, or conservator.

- **Affidavit** is a voluntary statement of facts written down and sworn to by the person making the declarations before an officer authorized to administer oaths, such as a notary public.

Frequently Asked Questions - Probate Division



What is Probate?

Probate is the court procedure by which a will is proved to be valid or invalid.

Why is probate necessary?

Probate is necessary to protect the assets of the decedent for their heirs, creditors, and other persons due money from the estate, and to ensure the collection of money due the estate. Probate provides for the payment of outstanding debts and taxes, as well as the expenses of administration and distribution of the estate to the heirs.

When should you file a probate petition?

A probate action should be commenced as soon as possible after the decedent's death.

What are the filing fees associated with filing a probate petition?

The filing fee for probate petitions is One Hundred Fifty Dollars (\$150.00). Upon the Court's entering of the Final Adjudication in each probate matter, a Final Adjudication Assessment Fee is charged.

What documents do I need to support a Probate Petition?

The following documents are needed to support a probate petition:

- The certified death certificate of the decedent. The certificate must bear a raised seal.
- Proof of the decedent's ownership of property.
- The original will, if the decedent died testate or an evidentiary hearing will be scheduled to determine the validity of a copy of the will.
- An authenticated will and record of cover proceeding in an ancillary probate.

If a family member dies, how do I get their property transferred to the person who is entitled to receive it?

The deceased person's property would have to be probated; therefore you should seek the advice of an attorney. Based on the amount of the assets and the size of the estate, the attorney would know the appropriate petition should be filed. The attorney would then file the appropriate petition with the court. The filing fee for probate petition is \$150.00.

I have a question about my case. Who do I ask?

All verbal communication with the Court can only be done with the Office of the Clerk. The Office of the Clerk will do its best to help you understand the procedures you must follow. However, you must remember that the Office of the Clerk cannot give you legal advice.

The only method to communicating with the Magistrate Judges is by written motion, served on all parties.

How do I "e-file" documents?

As of August 31, 2020, if you want to become an E-filer, you must:

- Go to the Virgin Islands Judicial Branch website, www.vicourts.org.
- Go to "[E-Services](#)", click on "e-Filing" then click on "Become and E-Filer Today."
- Click on "Become an E-filer Today."
- Fill in the information.
- When it comes to "Type" select "E-File User."

- If you e-file documents, your documents will be on time if the document is filed before 11:59 p.m., Atlantic Standard Time, on the document's due date.
- If you abuse your e-filing ability (for example by filing documents that are not part of the record or repeatedly filing documents that do not comply with the Court's Rules) the Clerk of the Court can take your ability to e-file away from you.

What if I don't have access to a computer?

You may file your documents by mailing or hand-delivery.

Five Types of Probate Petitions



A **probate petition** is the procedure by which the estate of a deceased person is distributed to his or her heirs. There are four types of probate petitions:

1. There is a petition for the Administration of Testamentary Estates, which is filed in accordance with [V.I. R. Prob. Rule 3](#) and 15 V.I Code Ann. § 232.
2. There is a petition for the Administration of Intestate Estate, which is filed in accordance with [V.I. R. Prob. Rule 4](#) and 15 V.I. Code Ann. § 232.
3. There is a Summary Administration, which is filed in accordance with [V.I. R. Prob. Rule 22](#) and 15 V.I. Code § 167. Summary Administration is an *abbreviated* form of probate typically used when assets are valued at \$100,000.
4. There is a petition for the Settlement without Administration, which is filed in accordance with [V.I. R. Prob. Rule 23](#) and 15 V.I. Code Ann. § 191 and § 198. Settlement without Administration is permissible that when a person dies intestate, leaving no debts or such debts as his heirs choose to assume and pay. The heirs must accept the estate “purely, simply and unconditionally.”
5. Finally, there is the petition for the Administration of Ancillary Probate, which is filed in accordance with [V.I. R. Prob. Rule 24](#). Where real and/or personal property, located within the United States Virgin Islands has been devised or bequeathed by the written will of a nonresident testator, the devisees or legatees entitled under the will, to the property in the United States Virgin Islands may apply to the Superior Court to be placed in the possession of such property. This procedure is not applicable where the decedent dies intestate.

COURT FEES RELATED TO PROBATE

Application for Probate or Administration over \$200	\$150.00
Certified Copy of Any Record	\$3.00/page
Copy of Document	\$1.00/page
Electronic Transcripts of proceedings (in digital courtrooms)	\$50.00
Exemplification of Court Records	\$50.00
Guardianship Matter	\$75.00
Last Will & Testament	\$75.00
Notary to Signature	\$5.00

Record Searches (15 yrs. from date of search)	\$75.00
Record Searches (Less than 15 but more than 5 yrs.)	\$25.00
Record Searches (Less than 5 yrs.)	\$10.00
Return Check Fee	\$50.00
Service of Subpoena	\$50.00
Wills for Safekeeping	\$75.00

