



Inheriting an Estate in Ontario? Step-by-Step Guide for Executors to Protect Assets, Avoid Delays, and Reduce Personal Liability

You should speak to a probate lawyer immediately if:

- there is no Will
- multiple beneficiaries are involved
- there is real estate
- there are creditor issues
- the executor lives outside Ontario
- beneficiaries are in conflict
- the estate exceeds simple bank account transfers

START WITH THE STEPS THAT UNLOCK FUNDS & PROTECT ASSETS



#1 Check for life insurance and other death benefits

Death benefit payouts from insurance companies are the first inheritance you can receive. Handling this first means you have the funds for immediate expenses such as funeral costs, legal fees, accounting fees, taxes, and mortgage payments.



An experienced probate lawyer can help manage these claims, and file for probate if designated beneficiaries were not set.

Common insurances to check for include:

- Life Insurance (e.g. Sun Life, Canada Life, London Life, etc.)
- Dividend Insurance
- Employee benefit insurance (check with deceased's employer)
- Mortgage Insurance (with the bank that holds the mortgage)



#2 Check for joint accounts and registered accounts with designated beneficiaries

Like insurance, specific registered bank accounts would give beneficiaries access to the funds within 5-15 business days of receiving the death certificate. Those include:

- Any joint accounts held by a deceased with one or more other people
- TFSA, RRSP, RRIF with a designated beneficiary (if no beneficiary is set, then a probate application is required to access those funds)

It's best to get your estate lawyer to do this step as part of their estate package.



An experienced probate lawyer can help you facilitate communications with all financial institutions in the most efficient manner possible. This is important for payments that could fall into default without access to money quickly, such as mortgage payments.



#3 Immediately Manage Debts to avoid Assets Being Sold and Interest Penalties

Notify the deceased's creditors immediately to prevent them from selling off assets like real estate and vehicles owned by the deceased. Creditors typically include:

- Banks (mortgages, line of credits)
- Vehicle dealerships
- Condo management corporations
- Utility companies
- Municipalities for property tax payments



Working with an experienced lawyer means you do not need to face intimidations from creditors, and the lawyer can often negotiate a quick and reasonable resolution to the deceased's debts. In the least, it will likely delay creditors from selling off the assets.

#4 Submit a Probate Application to the Court

Any bank accounts, real estate, vehicles – held solely under the deceased's name with no designated beneficiaries require a probate application to be released. Ensure you start the application as early as possible to avoid estate assets being depleted and to meet the tax filing deadlines.



A probate lawyer can ensure that the application is submitted without any errors. This is very important because errors can cause:

- Months or years of delays
- Court requiring a bond insurance costing 5% of the entire estate value
- Court rejecting the application

#5 Work with an Estate Lawyer to Lower the Risk of Bond Insurance

If the deceased did not leave a Will, the court is likely to require the executor to buy a bond insurance, typically costing 5% of the entire estate value.



An experienced probate lawyer can often get the Court to waive bond insurance by lowering the risks of the probate application.



#6 Pay the Estate Administration Tax

When the probate application is filed, the **Estate Administration Tax** must be paid right away. In Ontario, the first \$50,000 of estate is tax free, and thereafter it's taxed at 1.5%.



The executor can prepay this tax and be reimbursed for the estate later, or the estate lawyer can apply to the deceased's bank to pay it from the deceased's bank account.

#7 After probate, gather assets and open an estate account

After probate is submitted, the Court needs time to process it. In general:

- With a valid Will – processing time is between 1 – 6 months;
- Without a valid Will – processing time is between 6 months – 2 years

Once probate is approved, the executor is granted access to all of the deceased's assets.

#8 File taxes, pay debts, keep records, and distribute the estate properly

The good news is that the executor is given full access to all the estate funds. The bad news is that the executor is personally liable for the entire estate value if mistakes are made in how the estate is managed.

In summary, the executor must:

- Open an estate account and deposit all of the deceased's liquid funds in there;
- Transfer ownership of real estate held by the deceased (with a real estate law firm such as us)
- File probate taxes with your lawyer (taxes already paid, but filing still need to be done) and file the deceased's income taxes with your accountant
- Pay out all of the deceased's debts
- Distribute the net estate value (after debts and taxes) to the beneficiaries
- Maintain detailed records of all deposits and withdrawals related to the estate account, and present to beneficiaries/court/government when requested.



This lengthy process can be significantly shortened and simplified by an experienced probate law firm. Leaving you to focus on your life and to receive your inheritance stress-free.

Before you file probate, speak to a lawyer first. Mistakes can create lengthy delays and significant unnecessary costs

Book your consultation: www.varitylaw.ca

