

APPOINTMENT OF FIDUCIARY

FILINGS

1. SPF 1.0: Surviving Spouse, Children, Next of Kin, Legatees and Devisees
2. SPF 4.0: Application For Authority
3. SPF 4.1: Supplemental Application for Ancillary Administration
4. SPF 4.2: Fiduciary Bond
5. SPF 4.3: Waiver of Right to Administer
6. SPF 4.4: Notice and Citation of Hearing
7. SPF 4.5: Entry Appointing Fiduciary
8. SPF 4.8: Fiduciary Acceptance [R.C. 2109.02]

TYPES OF FIDUCIARIES

1. Intestate:
 - a. Administrator [R.C. 2113.06]
 - b. Special Administrator [R.C. 2113.15 - 17]
 - c. Administrator De Bonis Non [R.C. 2109.26]
 - d. Ancillary Administrator. [Chapter 2129]
2. Testate:
 - a. Executor [R.C. 2113.05]
 - b. Ancillary Executor [Chapter 2129]
 - c. Administrator With Will Annexed. [R.C. 2113.12]

VENUE

1. County of residence if death intestate [R.C. 2113.01]
2. County of domicile if testate [R.C. 2107.11]

NOTICE [R.C. 2113.07]

1. Notice and citation of hearing to be served upon all persons who have priority to administer the estate. [Civ.R. 73], Form 4.4
2. Minors who would have been entitled to administer estate, but for their minority must be served with notice unless notice is waived. [Civ.R. 4.2]

3. If a minor was nominated as executor another fiduciary may administer the estate until the minor reaches the age of majority at which time the former minor may be appointed. [R.C. 2113.13]

PRIORITY OF APPOINTMENT

1. Intestate [R.C. 2113.06]
 - a. Surviving spouse who resides in Ohio.
 - b. Next of kin who resides in Ohio.
 - c. Other suitable person who resides in Ohio.
 - d. Priority may be waived.
 - e. See SPF 4.3 - Priority may be lost by neglect in filing. [R.C. 2113.06]
2. Testate [R.C. 2113.05]
 - a. Person nominated in will.
 - b. If no nominated executor is able or willing to serve to a legatee or devisee named in the will who would have been entitled to administer estate if the decedent had died intestate.
 - c. If none of above, to some other suitable person.

RESIDENCY REQUIREMENT

1. Intestate – resident of Ohio. [R.C. 2109.21(A)]
2. Testate – resident of Ohio, or non resident if related to decedent by affinity or consanguinity, or a person who resides in a state that authorizes the appointment of a nonresident. [R.C. 2109.21(B)(1)]

FIDUCIARY BOND

1. Required under R.C. 2109.04 unless:
 - a. Surviving spouse who is entitled to entire net proceeds. [R.C. 2109.07]
 - b. Administrator is sole next of kin and entitled to net estate. [R.C. 2109.07]

- c. Bond waived by will. [R.C. 2109.04]
 - d. Bond not waived in will, but executor is the next-of-kin entitled to entire net proceeds. [R.C. 2109.09]
 - e. Fiduciary is sole residuary legatee or distributee. [R.C. 2109.04]
 - f. Bond may be set by court if R.C. 2109.07 and 2109.09 do not apply.
2. Amount of bond shall be no less than double the probable value of personal property and annual real estate rental income [R.C. 2109.04]
 3. Deposit in lieu of bond. [R.C. 2109.13]

ENTRY (SPF 4.5)

The applicant must be found to:

1. Meet residence, priority, and bonding requirements.
2. Be suitable, competent, and accepts appointment. [R.C. 2113.05 and R.C. 2113.06]

3. An administrator shall give written notice of appointment to all next-of-kin who were not served with notice of appointment or waived notice. [Sup.R. 60(B)]

SPECIAL ADMINISTRATOR [R.C.2113.15]

1. Ex parte appointment if there is a delay in granting letters of authority.
2. Special administrator to collect and preserve assets of the decedent's estate until executor or administrator appointed.
3. Creditor claims may be presented to the special administrator. [R.C. 2113.17]
4. Bond requirements for special administrator [R.C. 2109.08]
5. Special administrator must account for assets coming into his or her hands [R.C. 2113.16]