

Common Probate Questions with Answers

My husband died 5 years ago and I am just selling our home and discovered his name is still on the deed. Our deed does not indicate right of survivorship. What do I do?

Although the Clerk's Office cannot provide you legal advice, the information we can offer is the Clerk's office provides two packets, with detailed instructions. You may review each packet to determine which process you want to file to transfer the deed into your name.

Affidavit of Succession

<http://www.coscpinalcountyaz.gov/assets/affidavit-of-succession-for-transfer-of-real-property.pdf>

Application for Appointment of Personal Representative

<http://www.coscpinalcountyaz.gov/assets/application-for-appointment-as-personal-representative.pdf>

My mother just died, do I have to file a probate?

Although the Clerk's Office cannot provide you legal advice, the information we can offer is if there are items (insurance policy, real property, bonds, etc.) which require a court order, or letters of personal representative, to place or transfer each item to an heir, the entitled heir can apply to the court to be appointed a personal representative.

<http://www.coscpinalcountyaz.gov/assets/application-for-appointment-as-personal-representative.pdf>

In instances where an estate is less than \$50,000 an Affidavit to Collect Personal Property may be completed by an heir. The Affidavit is provided by the COSC, but the office does not file it, or keep it on record. COSC staff may perform notary services on the form, but it is solely up to the accepting agency (bank, DMV, insurance company, utility company, etc.) to determine if the affidavit is suitable.

<http://www.coscpinalcountyaz.gov/assets/aff-to-collect-personal-property-package.pdf>

I'm already going through the process to be a personal representative in Texas, but my mother has property in Pinal County. Do I probate here as well?

Although I cannot provide you legal advice, the information I can offer is individuals in your situation often file a Proof of Authority in Arizona. You may refer to ARS 14-4204. By filing the proof of your appointment from another State in Arizona, your Letters of Authority are recognized so you can handle the transfer of property, if needed. Our office does not provide forms to complete this process.

What is the filing fee for an Affidavit of Succession?

\$216.00 is the filing fee. A certified copy of the approved Affidavit is required for recording purposes. There is a \$28.00 fee per certification and a 50 cents per page fee associated. You may want to contact the County Recorder to obtain their required fees.

My brother won't sign the consent to be the personal representative, what do I do?

Although I cannot provide you legal advice, the information I can offer is every entitled heir must be served or consent to the appointment to proceed informally. If your brother will not sign, you may arrange for service by a process server, law enforcement agency or serve by mail. You may refer to service rules of the Court for time limits.

My dad gave me his motor home and I want to get the title into my name, what do I do?

A motor home, not affixed to real property, is considered a motor vehicle. The Clerk's Office does not handle vehicle titles. You may want to contact the Department of Motor Vehicles to obtain information on how to transfer a title when the owner is deceased.

I am closing on a sale of my property tomorrow and just found out the title is still in my husband's name. What do I do?

Although the Clerk's Office cannot provide you legal advice, the information we can offer is an Affidavit of Succession for Transfer of Real Property form packet is utilized to transfer a piece of real property to an heir. Please refer to the packet for requirements.

<http://www.coscpinalcountyaz.gov/assets/affidavit-of-succession-for-transfer-of-real-property-pack.pdf>

My parents died 11 months ago and I have been living in their house paying the mortgage all this time. I am having financial problems and need to find out what my refinancing options are but the bank won't speak to me since my name is not on the account. What do I do?

Although the Clerk's Office cannot provide you legal advice, the information we can offer is if the bank will not speak to you until you are appointed a personal representative of the estate, you may want to refer to the Application for Appointment of Personal Representative packet and read the instructions to determine your course of action.

<http://www.coscpinalcountyaz.gov/assets/application-for-appointment-as-personal-representative.pdf>

My mom has an account at the bank with \$400.00, what do I do to close her account?

Although the Clerk's Office cannot provide you legal advice, the information we can offer is there is a form available on our website. Please read the instructions and inquire with the bank if they will accept such form.

<http://www.coscpinalcountyaz.gov/assets/aff-to-collect-personal-property-package.pdf>