



PENNSYLVANIA ASSOCIATION OF COMMUNITY BANKERS

THE VOICE FOR COMMUNITY BANKING IN PENNSYLVANIA SINCE 1876

Consumer Tips July 2009 Have You Prepared Your Will?



When a loved one dies, it is a traumatic event for the family. Be sure your family and friends do not become entangled in haggling and legal procedures in the disposition of your estate by having your will prepared in advance.

Many people put off preparing their will because they think they need to have an attorney prepare it. On the other hand, it probably is not as expensive as you think to have an attorney prepare your will if you are willing to shop around.

With today's technology, you have access to many online forms you can use in preparing your "last will and testament". These forms make it easy if your estate is simple and straightforward. You merely designate who you want to receive your property, including your home, automobile, personal items and investments. If you have a complex financial portfolio, it would be advisable to seek the advice of an attorney. The most important thing to remember is that if you die without a will, your estate will be determined by state law and if no one can be found to inherit your property, it goes to the state.

For those of you who are parents, it is extremely important that you have a will that names a guardian for your minor children should both of you die. Otherwise, the state will decide who cares for your children.

When designating a guardian for your minor children in the event that both of your children's parents die, it is important that both you and your spouse designate the same person to be the personal guardian of your minor children. That same guardian can also be designated to manage any property or trusts that you leave to your children. This trustee would manage the property or trusts until your minor children reach legal age, or an age specified by you, to inherit the property.

As for surviving spouses, if you live in a community property state, your surviving spouse is entitled to half of your estate. The other half can go to anyone whom you designate. Other states require the surviving spouse to go to court to claim their share of the estate.

In the rare event that someone should challenge your will, they would have to prove to a court that the will was invalid because your signature was forged, you were not of sound mind when you wrote the will or you were coerced into signing the will. These claims do not usually stand up in court because they are usually brought by a disgruntled family member who feels cheated for not receiving what they believe is rightfully theirs.

After your will is written, it must be signed and dated by you in the presence of witnesses (usually two witnesses). Many states require that those who witness the signing of your will are not designated to receive any part of the estate.

While there are no requirements that your will be notarized, having you and your witnesses sign the document in the presence of a notary public will simplify the validity of the will when you die. Be sure your signature is placed at the end of the will or your will could be invalidated by the courts.

It is not necessary to record or file your will with any government agency, but be sure you keep it in a safe place, such as a safe deposit box at your bank. Be sure the document is accessible to your executor, the person you designate to handle the affairs of your estate. You should also prepare a document for your executor with up-to-date information on your credit cards, insurance policies bank information and other financial information and keep a copy with your will.

Your will can always be updated should changes occur like marriage, adoption, births of additional children, death or divorce. Other changes might include changes in tax law or you might decide to appoint a different executor of your estate. In these instances, you can either re-write your will or add what is known as a codicil, which is an addition to your original will. With today's technology, most attorneys just re-write the will rather than prepare a codicil.

While there is software available to you for other estate planning documents, including physician directives and durable power of attorney, be sure you understand the implications. If you have any questions, it would be advisable to consult a professional.

While you are well and healthy is the best time to prepare your will so you can give careful thought on how you want your estate managed when you're gone.

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