
North Carolina Practice Series

North Carolina Estate Settlement Practice Guide

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Raleigh, North Carolina



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Dedication

This Book Is Dedicated To My Mother, Dorothy Sampson Huggard

About the Author

John Huggard is the senior member of the Raleigh, North Carolina law firm of Huggard, Obiol & Blake, P.L.L.C. He is a North Carolina State Bar Certified Specialist in Estate Planning and Probate Law and is also a Certified Financial Planner. In 2007, John was named a North Carolina Super Lawyer by the Charlotte City Magazine. He limits his practice to litigation and appeals involving estate and financial matters. John was a full-time faculty member for 30 years at North Carolina State University where he taught law and finance courses. He was a member of the University's Academy of Outstanding Teachers and retired as an Alumni Distinguished Professor. John is the author of several articles on wills, estates and trusts and is the author of two other books dealing with these topics. He regularly lectures to professional groups on topics dealing with estate administration, taxation and estate planning. John received his undergraduate and law degrees from the University of North Carolina at Chapel Hill and his master's degree from Duke University. John joined the U.S. Marine Corps in 1964 and served as a platoon sergeant in Viet Nam. He received a direct commission and recently retired from the Navy reserve as a captain in the Judge Advocate General's Corps.

Acknowledgment

Writing this Practice Guide was a multipartite project. My part of the project was the easiest—I gathered basic research material, which resulted in the creation of thousands of pages of nearly indecipherable, disorganized handwritten notes. The most difficult part of this work was completed by my friend, Donna Buck, who had the monumental task of organizing my notes into a logical and readable style. In addition to this burden, Donna proofed the manuscript for misspellings, improper grammar and other errors which abounded.

I want to thank my wife, Jennifer, who never once complained when “the book” took precedence over all else, including her. Countless attorneys, probate clerks and CPAs throughout North Carolina were kind enough to allow me to constantly bother them whenever I needed clarification of a statute or tax matter. To those people mentioned above and those unmentioned supporters, I give my heartfelt thanks.

Preface

The laws of North Carolina regarding settlement of decedents' estates, when properly applied, are designed to facilitate an equitable and prompt transfer of property interests from a deceased to his creditors and survivors. This practice guide was written to assist attorneys, trust officers, CPAs, law students, paralegals, and lay persons in understanding how these estate settlement laws function. The book is not intended to be an exhaustive academic treatise, but rather it is a practical "how to" manual on settling decedents' estates in North Carolina. The this end, every attempt has been made to produce a concise, step-by-step guide designed to take the reader on an intelligible journey through the statutory requirements essential to the proper settlement of both estate and intestate estates.

In writing this book I wanted to create a simple yet complete learning tool for mastering the laws of estate settlement in North Carolina; therefore, I have included, where helpful, illustrations, forms, and checklists to help the readers. Suggestions involving practical application of the law and tips on avoiding potential malpractice traps have also been included. When statutory reference is made to a form or other document, a sample has been provided. Many of the forms contained herein are those prepared by the Administrative Office of the Courts and can be obtained from any Superior Court Clerk's office in North Carolina.

The book contains 36 chapters that discuss the settlement of estates in chronological order beginning with a discussion of the qualifications and application process required for one to be appointed a personal representative and concluding with a discussion of the final accounting and closing of an estate. Where background information is needed to understand North Carolina's estate settlement statutes, it is provided. For example, several chapters are included in this book on the law of wills, the elective life estate, caveat proceedings, etc.

Although this volume is updated annually, the North Carolina General Statutes should always be consulted in conjunction with this or any other book attempting to condense and explain a complex area of law. I hope this book proves helpful to you as you begin to undertake the important responsibility of settling an estate in North Carolina.

John Parker Huggard
Raleigh, North Carolina
March 2013



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