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Writing Your Will

An Informational and Educational Guide For Residents of New York State

Designed and Provided by the Rural Law Center of New York, Inc.

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YOUR LAST WILL AND TESTAMENT

A GUIDE DESIGNED AND PREPARED BY
THE RURAL LAW CENTER OF NEW YORK, INC.

SIXTEEN IMPORTANT QUESTIONS

1. What is a LAST WILL AND TESTAMENT?

A LAST WILL AND TESTAMENT (more commonly known as a WILL) is a legal document that specifies how you wish to pass on your property at the time of your death.

2. Who should write a WILL?

Anyone who is legally an adult and "of sound mind" can make a WILL. Since no one can guarantee long life, there is no benefit to postponing the writing of your will. Anyone who wants his or her wishes considered at the time of his or her death should write a WILL.

3. Why should I write a WILL?

A legally binding, written WILL is the only way you can be confident that your property will be distributed according to your wishes.

4. Can't I just tell my family my wishes?

If you choose to, you should tell your family how you want your property distributed. However, without a written WILL backing it up, you have no assurance that your family will be able to carry out your wishes.

5. What happens if I don't have a WILL?

If you die without leaving a WILL, the State of New York determines how your property will be distributed. If your property is distributed in this manner, it will be dispersed in specific

proportions among your surviving relatives. If you have no surviving relatives, your property will revert to the State.

6. How do I begin?

The best way to start is to make a list of all of your property and then begin to decide how you would like it dispersed. To help you, we have prepared a worksheet you may find useful.

7. What does a WILL look like?

We have also included here, a sample of a simple WILL for use in New York State. You will notice that it follows a certain format that formally lists all of your bequests (gifts). Then it is signed by you and also signed by two witnesses.

8. What are the technical requirements of a WILL?

In New York State, a WILL must be signed and dated by the person writing it. It must also be signed and dated by two witnesses. In addition, to avoid possible complications, your WILL should be typed, not handwritten, and have no additions or corrections to the pages.

9. What is a BENEFICIARY?

A BENEFICIARY is the person that you leave some, or all, or your property to.

10. What is an EXECUTOR?

An EXECUTOR is the person that you name in your WILL who will be responsible for making sure that your property is distributed according to your wishes.

11. Who should be my EXECUTOR?

You are free to choose anyone you want. Your EXECUTOR should be someone that you feel is trustworthy and will take the

responsibility to ensure that your wishes are carried out. It is a good idea to ask the person if he or she is willing to serve as your EXECUTOR before you name him or her in your WILL. In the event the person you have chosen cannot serve at the time of your death, you should name a back-up person as well.

12. What about my FUNERAL PLANS?

It is not a good idea to include your FUNERAL PLANS in your WILL. A WILL is not usually read until some time after the funeral. It makes more sense to write out FUNERAL PLANS in a separate document and give that document to the person who would be making the funeral arrangements.

13. Do I need a LAWYER to write my WILL?

You may decide that you feel more confident if a lawyer prepares your WILL, especially if your estate is complicated. However, an attorney is not absolutely necessary. If you choose to do your own WILL, though, you must be sure to follow New York State required procedures for signatures and witnesses.

14. Who should be my WITNESSES?

Your WITNESSES can be any adults that you choose. For convenience, it is good to have witnesses that know you and live nearby. Also, very importantly, your WITNESSES can not be anyone that you have named as BENEFICIARIES in your WILL.

15. How do I sign my WILL?

When you have your WILL written to your satisfaction, arrange for a time to meet with your WITNESSES. Before you sign, say out loud, "This is my Last Will and Testament that I am signing and it represents my wishes for the distribution of my property at the time of my death". Ask them to watch you sign, and then have each of them sign as WITNESSES. Your WITNESSES do not read the contents of your WILL, they simply acknowledge that they have watched you sign it.

16. Once it is signed, what do I do with my WILL?

Make one or more copies of your completed WILL and keep the original in a safe, fireproof location. Do not keep your WILL in a bank safe deposit box. Opening a safe deposit box after a death can require a special court order and delay the carrying out of your wishes. Wherever you choose to keep the original of your WILL, make sure your EXECUTOR knows the exact location.

WORKSHEET FOR WRITING A WILL

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YOUR NAME _____
FULL ADDRESS _____

EXECUTOR'S NAME _____
EXECUTOR'S ADDRESS _____

ALTERNATE EXECUTOR'S NAME _____
ALTERNATE EXECUTOR'S ADDRESS _____

LIST OF YOUR PROPERTY

1. Do you own REAL ESTATE? _____

Describe and give address: _____

Who do you want to leave this to?

NAME _____
ADDRESS _____

If that person dies before you, whom do you want to leave this to?

NAME _____
ADDRESS _____

If you have additional REAL ESTATE, repeat these questions for each separate property on an additional sheet.

2. Do you have BANK ACCOUNTS? _____

CHECKING ACCOUNT. Name of Bank _____
Account Number _____

Who do you want to leave this to?

NAME _____
ADDRESS _____

If that person dies before you, whom do you want to leave this to?

NAME _____
ADDRESS _____

If you have additional CHECKING ACCOUNTS, repeat these questions for each separate account on an additional sheet.

SAVINGS ACCOUNT. Name of Bank _____
Account Number _____

Who do you want to leave this to?

NAME _____
ADDRESS _____

If that person dies before you, who do you want to leave this to?

NAME _____
ADDRESS _____

If you have additional SAVINGS ACCOUNTS, repeat these questions for each separate account on an additional sheet.

OTHER ACCOUNTS. Name of Bank _____

Account Number _____

Who do you want to leave this to?

NAME _____

ADDRESS _____

If that person dies before you, who do you want to leave this to?

NAME _____

ADDRESS _____

If you have additional ACCOUNTS, repeat these questions for each separate account on an additional sheet.

3. Do you own STOCKS, BONDS, SECURITIES? _____

Describe: _____

Location: _____

Who do you want to leave this to?

NAME _____

ADDRESS _____

If that person dies before you, who do you want to leave this to?

NAME _____

ADDRESS _____

If you have additional STOCKS, BONDS, SECURITIES, repeat these questions for each separate property on an additional sheet.

4. Do you own any VEHICLES (car, boat, camper, etc.)? _____

Describe: _____

Who do you want to leave this to?

NAME _____
ADDRESS _____

If that person dies before you, who do you want to leave this to?

NAME _____
ADDRESS _____

If you have additional VEHICLES, repeat these questions for each separate vehicle on an additional sheet.

5. Do you own any other VALUABLES (antiques, jewelry, etc.)?

Describe: _____

Who do you want to leave this to?

NAME _____
ADDRESS _____

If that person dies before you, whom do you want to leave this to?

NAME _____
ADDRESS _____

If you have additional VALUABLES, repeat these questions for each separate property on an additional sheet.

6. Do you own HOUSEHOLD FURNISHINGS? _____

Describe: _____

Who do you want to leave this to?

NAME _____
ADDRESS _____

If that person dies before you, whom do you want to leave this to?

NAME _____

ADDRESS _____

If you have additional HOUSEHOLD FURNISHINGS, repeat these questions for each separate property on an additional sheet.

7. Do you own any other PERSONAL PROPERTY? _____

Describe: _____

Who do you want to leave this to?

NAME _____

ADDRESS _____

If that person dies before you, whom do you want to leave this to?

NAME _____

ADDRESS _____

If you have additional PERSONAL PROPERTY, repeat these questions for each separate property on an additional sheet.

SAMPLE
DESIGNED AND PREPARED BY
THE RURAL LAW CENTER OF NEW YORK, INC.

Last Will and Testament
OF JANE DOE

I, JANE DOE, a resident of the city of Albany, New York, being of sound mind, do hereby make, publish and declare this to be my **LAST WILL AND TESTAMENT** hereby revoking all Wills and Codicils at any time heretofore made by me.

First: I direct that my executor or executrix, hereinafter named, pay all my legal obligations and just debts as soon after my death as may be possible.

Second: I give, devise and bequeath the following specific bequests:

1. My house and property at 4673 South Street in Albany, New York, I give, bequeath and devise to my sister Sally Doe of Albany, New York. Should she predecease me, I give, bequeath and devise this property to my nephew, John Doe, of Albany, New York.
2. My one hundred (100) shares of General Motors stock I give, bequeath and devise to my brother, James Doe of Buffalo, New York. Should he predecease me, I give bequeath and devise this property to my niece, Ann Doe, of Buffalo, New York.
3. My collection of ten (10) antique quilts I give, bequeath and devise to my niece, Ann Doe, of Buffalo, New York, and my nephew, John Doe, of Albany, New York, to be shared equally between them.

Third: I give, bequeath and devise all the rest, residue, and remainder of my real, personal or mixed property, wherever situate, to my brother, James Doe of Buffalo, New York and my sister, Sally Doe of Albany, New York, to be shared equally between them, their heirs and assigns forever.

Fourth: I hereby appoint my sister Sally Doe, of Albany, New York as Executrix of this my Last Will and Testament. If for some reason she is unable to serve as my Executrix, I appoint my brother, James Doe of Buffalo, New York, as Alternate Executor.

IN WITNESS WHEREOF, I JANE DOE, have hereunto subscribed my name the _____ day of _____ in the year Two Thousand and Two.

JANE DOE
Testatrix

We, whose names are hereto subscribed, **Do Certify** that on the _____ day of _____, 2002, JANE DOE subscribed her name to this instrument in our presence and in the presence of each of us, and at the same time, in our presence and hearing, declared the same to be her Last Will and Testament, and requested us, and each of us to sign our names thereto as witnesses to the execution thereof, which we hereby do in the presence of **JANE DOE** and of each other, on the day of the date of the said Will, and write opposite our names our respective places of residence.

WITNESS _____
(print name here) _____

ADDRESS _____

WITNESS _____
(print name here) _____

ADDRESS _____
