

Do You Need a Probate Bond in New York?

If you have been appointed to handle the estate of someone who has passed away, county courts in New York will require you to obtain a probate bond before beginning your duties. To understand the purpose of a probate bond, it is important to first understand the process of probate.

What is Probate?

Probate is the legal process in which the distribution of a deceased person's assets is governed. This process frequently includes:

- Finding the will
- Giving the will to the probate court
- Gathering property of the estate
- Having property appraised
- Paying the estate's debts and taxes
- Paying for funeral and burial arrangements
- Distributing property of the estate

Probate is essentially the legal guide for how to handle an estate's debts and assets upon the owner's death. A [NYC estate planning lawyer](#) can help you determine how to proceed if you are involved in probate.

What is a Probate Bond?

If you have been named as executor, guardian, administrator, or trustee to a deceased person's estate, you will be required to get a probate bond to ensure that you fulfill your legal duties. All probate bonds have the same purpose, but they have different names based on *who* is appointed to handle the estate.

For example, if the deceased left a will and named you as executor, you will need to obtain an executor bond. If, on the other hand, the deceased died *without* a will and the court appointed you to manage the estate, you will need an administrator bond. Other types of probate bonds include trustee bonds, personal representative bonds, and conservatorship bonds.

All probate bonds basically “guarantee” that any outstanding debts of the estate will be satisfied and all remaining assets will be distributed as per the deceased’s wishes, or based on state law.

Who Pays and How Much Does it Cost?

In most cases, the cost of a probate bond is largely dependent on the size of the estate, but other factors are also involved. If you were appointed to handle the estate, you will need to pay for the probate bond, but you do not need to pay the full bond amount. To get bonded by the surety company, you only need to pay a small percentage of the total bond amount. Most probate bonds start at about 0.5 percent of the full amount.

Claims Made Against a Probate Bond

If you fail to comply with the terms of the will or trust, or with state laws, someone can file a claim against your probate bond. When this occurs, the surety company will expect you to resolve the claim on your own. If you fail to do so, the surety company will investigate the validity of the claim.

If a claim is found to be invalid, no further action will be taken. If, however, the claim is found to be valid, the surety company will ask you to settle the claim. The surety company will pay the claim on your behalf if you fail to do so, *but...*it will then seek reimbursement from you, in addition to any associated legal costs. In this way, a surety bond is very different from an insurance policy.

Contact Lissner & Lissner LLP Today

If you have questions about probate, probate bonds, or any other legal issue related to estate planning, the skilled legal team at Lissner & Lissner LLP can

help. We have helped countless NYC clients preserve and protect their wealth, and we want to help you.

Contact us today at [\(212\) 307-1499](tel:(212)307-1499) for a consultation about your case.