

What happens to the decedent's business?



Business Certificates for partnerships or sole proprietorships are filed in the Erie County Clerk's Office. To discontinue a partnership or sole proprietorship, a Discontinuance signed by the representative of the

estate can be filed in the Clerk's Office. Filing an Amended Business Certificate may permit the business to continue.

Other business organizations, such as corporations or limited liability companies, file organizational documents with the New York State Department of State. An attorney will be able to answer questions and advise you regarding any legal concerns regarding any business owned by the decedent.

For more information regarding the filing of estate proceedings, an attorney should be contacted.

How do I know whether the decedent has a judgment filed against him/her?

While searching in the public records, you may note liens or judgments filed against the decedent or someone of a similar name. The lien of a judgment filed in the Clerk's Office is effective for 10 years from date of docketing.

However, you will want to discuss the status of any judgments or liens with an attorney before taking any action. Creditors are required to file a claim against the Estate to collect on the judgment. Consult with an attorney to determine the rights of survivors regarding judgments

If the decedent was a creditor and has obtained a judgment against another person or entity or held a mortgage, the estate may be able to enforce the decedent's rights. You will want to discuss these issues with your attorney to determine the rights of survivors.

Erie County Auto Bureau (716) 858-7450

Buffalo

Downtown

Rath Building—95 Franklin St.
Enter at 170 Pearl Street
Monday-Friday 8:30am-4:15pm

Cheektowaga

Urbandale Plaza

2122 George Urban Blvd.
Monday Closed
Tuesday 10:00am-5:45pm
Wednesday 10:00am-5:45pm
Thursday 10:00am-5:45pm
Friday 9:00am-4:45pm
Saturday 7:00am-1:00pm

Satellite Offices (5 days a week)

North

Eastern Hills Mall

4545 Transit Road, Williamsville
Enter at Cinema (rear of the Mall)
Monday-Friday 9:00am-4:45pm

New Location

Sheridan Plaza

2309 Eggert Road, Tonawanda
Monday-Friday 9:00am-4:45pm

South

E.C.C. South

4041 Southwestern Blvd, Orchard Park
Monday-Friday 9:00am-4:45pm

Town of Evans

Evans Town Hall
8787 Erie Rd. (RT.5)
Mon, Tues, Thurs, Fri 8:00am-3:45pm
Wednesday 9:00am-4:45pm

Mobile Sites (one day a week)

Tuesday

10am-3pm

Elma Town Hall

1600 Bowen Road

Wednesday

10am-3pm

Grand Island Town Hall

2255 Baseline Road

Thursday

10am-3pm

Concord Town Hall

86 Franklin Street, Springville

Friday

10am-3pm

West Seneca Ice Rink

1250 Union Road, West Seneca

Don't Wait In Line...
Make Your Reservation On-Line
www.erie.gov/clerk/reservations

What to Do When a Loved One Dies: Answers from the Erie County Clerk's Office

The death of a loved one is a tumultuous time, filled with emotion, decisions and a myriad of questions. What to do with the car or driver's license? What about the house? Did he or she leave a will?

Since the County Clerk's Office handles real estate filings, vehicle registrations, new business filings, pistol permits and legal actions, in both the Auto Bureau and in the Registrar's Office, we deal daily with people who need guidance and are looking for answers.

We know how difficult this time can be, and have compiled a brochure with information we hope can help alleviate some of that stress.

Please accept our sincerest condolences during this difficult time. Should you require any assistance or additional information, feel free to contact the County Clerk's Office.

Sincerely,

**Erie County
Clerk's Office**

Erie County Clerk's Office

92 Franklin Street

Buffalo, New York 14202

Phone: 716-858-8797

Fax: 716-858-6550

Email: ErieCountyClerkOffice@erie.gov



Where can I obtain a copy of a Will?

Some wills are filed for safekeeping at Surrogate's Court. For more information, please visit www.nycourts.gov/courts/8jd/Erie/surrogates/index.shtml. You might also wish to contact the Family Attorney or an attorney who represented your family member to determine if an original will was executed and stored by the attorney.

What about real property the decedent held?

If you are unsure about what real estate the decedent owned at death, or whether he/she had another interest in real estate (i.e., in common with another), you may search the records of the County Real Estate Tax Services at www2.erie.gov/ecrpts/index.php?q=real-property-parcel-search by name. In addition, you may want to search the public records in the Clerk's Office to confirm the status of the title to real property and for a copy of the deed for any real property that the decedent owned at time of death. We recommend consulting with an attorney if you have questions.



concerns.

What do I do with the decedent's Driver's License or Passport?

Although not necessary, you may notify the State Department of Motor Vehicles of the death and remove the license from the system by mailing the decedent's license and a copy of the death certificate to NYS DMV, License Production, PO Box 2688 ESP, Albany, New York 12220-0688. Alternatively, you can destroy the current license and any renewal notices, and allow the driver's license to expire.

You are not required to do anything with the passport of a deceased person/family member and can keep it as a memento if you choose, or return it for cancellation/destruction.

For further information, please contact the National Passport Information Center at (877) 487-2778.

What is done with the motor vehicle owned by the decedent?

There is no need to transfer the vehicle immediately. By law, a member of the immediate family can use the vehicle until the registration or insurance expires. Any vehicle having a value of \$25,000 or less automatically transfers to the surviving spouse. The cost to obtain a title certificate is \$50; a credit may apply for the time left on the registration; and new plates will not be required.

If there is no surviving spouse, the ownership of one vehicle that has a value of \$25,000 or less may be transferred to surviving children under the age of 21. The legal guardian of one of the children must sign the title certificate indicating the child's relationship to the deceased owner.

Next of kin may transfer the vehicle even when there is no will, no estate proceedings, no surviving spouse, and no surviving child under the age of 21. Any additional vehicles or vehicles having a value in excess of \$25,000 become part of the estate for probate purposes.

For additional information please contact the Erie County Auto Bureau Call Center at 716-858-7450.



How can the Executor of the Estate transfer a vehicle?

If there is no surviving spouse or child under the age of 21, the Executor must sign the title certificate to allow for sale or transfer of the vehicle. To apply for a registration and title certificate, the new owner must provide the following to the Auto Bureau:

- The title certificate transferred by the Executor.
- Proof that the individual is the Executor of the Estate. The Auto Bureau returns these documents to the new owner after the documents are examined.



- A registration form (MV-82) tax form (DTF-802), proof of insurance, bill of sale and new owner's driver's license.

The new owner of a vehicle that was transferred in the settlement of the estate must complete tax form DTF-803 to apply for a sales tax exemption. If the vehicle was purchased from an estate, use tax form DTF-802.

When there is no will, no estate, no surviving spouse and no surviving child under the age of 21: The next of kin transfers the ownership and signs the title certificate and must complete form MV-349. (Transfer of Vehicle Registered in Name of Deceased Person). The form must be notarized. The next of kin must also give the new owner a copy of the death certificate (a photocopy is acceptable).

If there is more than one vehicle or there is one vehicle that has a value of more than \$15,000: The vehicle or vehicles become part of the estate. Form MV-349 or MV-349.1 may not be used to transfer the ownership. The Executor of the estate must transfer the ownership. Contact Surrogate Court to apply for Letters Testamentary, Letters of Administration or a Voluntary Administrator's Affidavit.

All DMV forms referenced above are available at www.dmv.ny.gov

What if the decedent possessed a pistol permit or firearm?

The decedent's pistol permit must be brought to the County Clerk's Pistol Permit Office where it will be stamped indicating the holder is now deceased. Any firearms must be turned in to the local police within fifteen days of the holder's passing.

If the survivor wishes to sell/transfer the firearm to anyone other than exempt family members, they must follow the Private Sales provision in the NY SAFE Act. If you require additional information on these guidelines please call 1-855-LAW-GUNS (1-855-529-4867).