

WHAT DO YOU DO WHEN SOMEONE DIES?

What are your responsibilities?
What documents do you need?

CONSULT YOUR NOTARY!



Rely on professional advice.

Consult your **notary!**



www.cnq.org

©Chambre des notaires du Québec, 2013

DEP210



THE STEPS TO FOLLOW

Before settling a succession, you first have to take care of the funeral and obtain the documents relating to the death.

Your notary will advise you on what to do following a death.

THE FUNERAL

What to check?

The first thing to check is whether the deceased had made prior funeral arrangements or signed a document expressing his wishes. Otherwise, check whether he expressed anything in his will or to a loved one.

Who decides?

If the deceased made no stipulations about the funeral, or if it is impossible to establish what he wanted, the heirs must then agree on the appropriate approach.

Who pays?

Normally, funeral costs are paid by the succession.

PROTECTING PROPERTY

The liquidator must do everything needed to protect the property of the deceased until the succession has been settled. If the identity of the liquidator is not yet known, it is up to the heirs to do this.

The liquidator, previously called the “executor”, is the person responsible for settling the succession. He is appointed in the will— or by the heirs, if no will was made.

Your notary will advise you on **measures to be taken** to protect the money and property of the deceased.

For example:

- + Contracting theft or fire insurance.
- + Collecting income from a building or a business.
- + Selling, or handing over to the heirs, any items that are perishable, lose value rapidly or are too expensive to maintain.

The assets of the deceased will be used to pay his debts (such as taxes and legacies by particular title) and other costs related to his passing (funeral costs and fees to obtain a death certificate, for example). What remains is the inheritance to be divided.

Your notary will also advise you on **what to avoid**.

For example:

- + Avoid appropriating items from the deceased’s property before completing all phases of the settlement of the succession, because this generally implies acceptance of the succession. You would then no longer be able to renounce the succession. If there is a deficit, you would be personally liable for the debts.
- + Do not voluntarily hide, sell or appropriate property belonging to the deceased with the dishonest intent of depriving the other heirs. You could forfeit your share of the inheritance.

DOCUMENTS RELATING TO THE DEATH

If given the responsibility, your notary will take care of all formalities resulting from a death.

Obtaining a copy of the death act or a death certificate

1. Transmitting the physician's attestation of death, and the Directeur de l'état civil's declaration of death

A representative of the funeral home will give you a copy of the **attestation of death** prepared by a physician as well as a **declaration of death** form to be filled out.

These two documents must then be sent to the Directeur de l'état civil with the deceased's health insurance card.

The Directeur de l'état civil is responsible for issuing acts of birth, marriage, civil union and death in Québec.

2. Apply to the Directeur de l'état civil to obtain a copy of the death act or a death certificate

After receiving these documents, the Directeur de l'état civil prepares a **death act** that repeats the information contained in the attestation of death and the declaration of death.

The original of the death act is kept by the Directeur de l'état civil. You may request two official documents:

- + A **copy of the death act**
- + A **death certificate** (i.e., an excerpt of the death act)

Either of these documents may be requested by financial institutions to settle the succession. Please check with your notary.

*While waiting for these documents, you may ask the funeral home to provide an **attestation of death**.*

This document is signed by a representative of the funeral home and confirms the person's death. It will be helpful for putting an end to the deceased's various services or subscriptions (electricity, telephone, newspapers and so on).

Searching for a will

To settle a succession, you must check whether the deceased had a will.

- + Go through his personal papers and obtain access to his safety deposit box.
- + Check with members of his family.
- + Submit a search application to the Register of Testamentary Dispositions of the Chambre des notaires and of the Barreau du Québec. This is mandatory. You will then obtain **two certificates** confirming whether a will has been registered with them or not.

Compensation or benefits are provided by certain government institutions in the event of death. The sums are paid to the succession or to members of the deceased's family who are eligible.

The people who are named in the will may obtain a copy of the will or the excerpt that concerns them. A person who is not named in the will may request a copy from the liquidator and from people who are named in it.

Depending on whether a will exists or not, your notary will explain the steps to follow to settle the succession:

1. There is no will

Your notary will establish who the legal heirs are. He will counsel them as to the choice of a liquidator.

He will also prepare a document called a **declaration of heredity** which confirms, among other things, the identity of the heirs and of the appointed liquidator. Certain financial institutions insist on looking into this document before allowing access to the deceased's records, property or money.

2. There is a will

If the deceased's final will is **notarized**, you must have in your possession a copy certified to conform to the original by the signature of the notary, the clerk or a person authorized by law to sign. This document is generally sufficient to settle the succession.

If the deceased's final will is **not notarized**, your notary will have it probated according to the law. The settlement of the succession may only begin after the will has been probated.

HOW TO PREPARE?

INFORMATION TO COLLECT

- The full name, contact information, date of birth and social insurance number of the deceased
- The date and place of death
- The documents relating to the deceased's civil status, such as a marriage certificate, marriage contract or judgment of divorce
- The original of the will and the original of any changes that may have been made
- Any other information requested by your notary

FOOD FOR THOUGHT

- Have you sent to the Directeur de l'état civil the deceased's attestation of death, declaration of death and health insurance card?
- Do you have an official copy of the death act or of the certificate of death issued by the Directeur de l'état civil?
- Have you obtained search certificates from the Register of Testamentary Dispositions of the Chambre des notaires and of the Barreau du Québec?
- Did the deceased have a will? Has the will been modified?
- Any other question raised by your notary.

DID YOU KNOW?

