



Probate: Is the legal process by which applicable tribal, Federal, or State law that affects the distribution of a decedent's estate is applied in order to: 1. Determine the heirs, 2. Determine the validity of wills and determine devisees, 3. Determine whether claims against the estate will be paid from trust personalty, and 4. Order the transfer of any trust or restricted land or trust personalty to the heirs, devisees, or other persons or entities entitled by law to receive them.

# The BIA Probate Process

- **1<sup>st</sup> phase DISCOVERY**
- BIA Agency Probate Staff (*Case Preparation*)
  - Case Preparation: Trust assets Only
    - Verify' s Trust assets, Land interests and IIM funds
    - Collects documents
      - Death Certificate, Wills, Codicils, Marriage, Divorce, Birth certificates, CIB's, claims
    - Researches family information
      - Interviews family members, locates potential heirs, verify addresses.
    - Prepares Land Inventory (INV), IIM accounting Ledger
    - Appraisals if applicable
  - How Long?
    - Dependent on acquisition of information



# The Probate Process (Con't)

## ■ 2<sup>nd</sup> phase ADJUDICATION

- Office of Hearings and Appeals (OHA)
- Assign Administrative Law Judge (ALJ)
- Schedule hearing w/ potential heirs
- Determines heirs, validates wills and claims
- Issues Decision for distribution of the estate
- How Long ?
  - Dependent on hearing schedule and complexity of the estate.
  - No established timeline for ALJ to issue order.



# Closing

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## ■ 3<sup>rd</sup> phase CLOSING

### BIA Agency Probate Staff (*Case Closing*)

- Reviews probate order, Appeal period 45 days from the date of the order.
  - **Some cases require correction and are returned to OHA**
- Establishes new accounts for new owners in systems of record, TAAMS (Title) and BTFA (IIM accounts)

### Appeal Period Ends : (**All Orders, carry an appeal period**)

- Request title update Land Titles and Records (LTRO) New owners on title
- Bureau of Trust Funds Administration (BTFA)
  - BIA submits to BTFA for closure and distribution of IIM accounts.

# Completion

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- BTFA notifies BIA when distribution is complete.
- Case Closed
- How Long?
  - Closure of the estate account is taking about 120 days
    - Backlog due to system conversion
    - Backlog due to Covid and telework

# BIA Systems Used

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- ProTrac, retired 12/17/2021
- TAAMS
  - Official System of Land Titles and Records
  - Official System of Record for reported deaths and probate process.
- Innovest
  - Official System, IIM
  - BTFA –Bureau of Trust Fund Administration
- OASIS
  - Requesting Appraisals

# Regulations and Laws



- State Probate Laws for Dates of Death prior to June 20, 2006.
- American Probate Reform Act (AIPRA) for Dates of Death on or after June 20, 2006.
- Tribal Probate Codes
  - Inheritance Acts
  - Approved Tribal Codes
- 25 CFR part 15
- 43 CFR part 4 and 30



# Provide Customer Service





# Death Notification

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- Anyone may notify the BIA of a death.
- A death is reported by the following offices:
  - The agency or BIA regional office nearest to where the decedent was enrolled.
  - Any agency or BIA regional office; or
  - The Trust Beneficiary Call Center in BTFA.
    - Toll Free number: 1-888-678-6836



# Let's talk documents required/needed

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# Tribes typically provide

For deceased ENROLLED individuals:

- Death certificate, if available.
- *Date of Birth, Date of Death, and Place of Death*
- Enrollment Number, CIB (Certificate of Blood Degree)
- Genealogy
- Non Enrolled?? A little harder
  - CLEAR
  - Ancestry



# Documents/ Supporting Evidence

- Death Certificate
- Originals of all **wills, codicils.**
  - Original required for validation of the will, by ALJ
- **Current names and addresses** of decedent's potential heirs and devisees.
- Any **sworn statements** regarding the decedent's family, including any statements **of paternity or maternity.**
- **Marriage licenses** and **divorce decrees** for the decedent.
- Copies of **birth certificates** and **adoption decrees** for the decedent's potential heirs and devisees.



# How long does case research take?

- Family Research
- Tribal Statutes
- Document retrieval
- Unknown heirs



# Case Submission to OHA

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- Probate packages are submitted electronically through the TAAMS system to OHA for probate proceedings. Mailing of Original wills may be necessary.
- OHA is holding telephonic hearings only at this time, until further notice.





# Division of Probate

- Peggy Carmack, Program Manager
  - 503-231-6786
- Letitia Jack, Legal Administrative Specialist
  - 208-621-4828
- Suzanne Karelsen, Legal Administrative Specialist
  - 425-977-3136