



Ohio Revised Code

Section 2101.38 Administration when the probate judge is interested.

Effective: January 13, 2012

Legislation: Senate Bill 124 - 129th General Assembly

Letters testamentary, of administration, or of guardianship shall not be issued to a person after the person's election to the office of probate judge and before the expiration of the person's term. If a probate judge is interested as heir, legatee, devisee, or other manner in an estate that would otherwise be settled in the probate court of the county where the judge resides, the estate, and all of the accounts of guardians in which the judge is interested, shall be settled by the court of common pleas of the county. In those matters and cases in which the judge is interested, the judge shall certify the original papers to the court of common pleas. In other matters and proceedings in a probate court in which the judge of the probate court is interested or in which the judge is required to be a witness to a will, the judge shall, upon the motion of a party interested in the proceedings or upon the judge's own motion, certify the matters and proceedings to the court of common pleas and file with the clerk of the court of common pleas all original papers connected with those matters and proceedings.

When a matter or proceeding is so certified, a judge of the court of common pleas shall hear and determine the matter or proceeding in chambers or in open court as though the court had original jurisdiction of the subject matter. Upon final decision of the questions involved in the matter or proceedings, the final settlement of the estate in which the judge is interested as executor, administrator, or guardian, or when the judge's interest in the estate ceases, the clerk shall deliver the original papers to the probate court in which the original papers were filed and make and file in that court an authenticated transcript of the orders, judgments, and proceedings of the court of common pleas. The probate judge shall record the orders, judgments, and proceedings in the proper records.
