



## Ohio Revised Code

### Section 5309.45 Application for registration on the death of registered owner.

Effective: October 1, 1953

Legislation: House Bill 1 - 100th General Assembly

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Upon the death of a registered owner of land, one or more of his heirs or devisees, or the assignee for the benefit of creditors, or administrators or executors, or holder of an involuntary lien or charge against the interest of any such heir or devisee or their heirs or devisees, or an heir, devisee, administrator, or executor of a deceased heir or devisee of such heir or devisee of a deceased registered owner, may at any time after the expiration of thirty days from such owner's death, if he died intestate, or from the probate of such owner's will and the election of the relict thereunder, if he died testate, make application to the probate court or the court of common pleas for registration of the title of the deceased in such heirs and devisees according to their respective rights and interests. The application shall be sworn to and shall set forth the lands of which such registered owner died seized, giving reference to the certificate therefor, whether he left a will, and if so a copy of such will, shall state the name in full, residence, and post-office address of the relict, and of each devisee and heir, and of each relict, heir, or devisee of any deceased heir or devisee, and of each person then holding any interest, present or future, vested or contingent, in said lands derived by devise or inheritance from such deceased owner or by descent or devise from any person subsequent to his death, so far as the applicants after diligent research and inquiry, have been able to ascertain the same, and that to the knowledge, information, and belief of the applicants, no other persons, whether in being or unborn, have any interest or estate, present or future, vested or contingent, in said premises, except as stated. If any persons in interest are under disability of any kind, the nature thereof shall be stated and the name, residence, and post-office address of their guardians or trustees given, and if minors, their ages stated. All persons in interest not joining in the application shall be made defendants thereto and may be notified and brought before the court, either in the manner provided for in original registration or by summons or other process as in civil actions, as the court directs. If there appears, from the application or otherwise, to be any doubt as to persons then holding interests in such land, or if the name or residence of any such person is unknown, then by name if known, and if not, under the designation of "all persons having an interest in the land herein described," all persons whomsoever shall be made parties to the application and served by publication of notice as provided for in sections 5309.14 and 5309.15 of the Revised Code, or as provided in civil actions, as the court directs. A guardian ad litem shall be appointed by the court as



provided in section 5309.17 of the Revised Code with like duties as in cases of initial registration. The decree of registration and certificates issued under such decree shall be in like form and number and have like effect as in original registration, except that such decree and certificates, in case they are issued before the estate of the deceased owner is finally settled, or before the time for contesting his will has expired, or before the final determination of any suit to contest or set aside his will, shall expressly state that they are entered and issued by transfer from the last registered owner, by descent or devise, subject to final settlement of the estate and right to contest the will of such deceased owner. After the final settlement of the estate in the probate court, and the expiration of the time for contest of the will or the final determination of suit to contest the will, the heirs at law, or devisees, or other persons in interest may petition the probate court or the court of common pleas for an order to cancel the memorandum upon such certificate, stating that the same is subject to final settlement of the estate and right to contest the will. The court, after notice and a hearing, may grant the petition; but the liability of heirs of registered land for claims against the estate of the deceased shall not in any way be diminished or changed. No voluntary instrument or deed of an administrator, executor, assignee for the benefit of creditors, sheriff, master commissioner, or other officer purporting to transfer or create a lien or charge upon any interest of such devisee or heir in such registered land or to authorize the same to be done, shall have any effect in law or equity to accomplish such purpose until the title of such heir or devisee is registered as provided in this section. An involuntary lien, charge, or lis pendens against the interest of a relict, heir, or devisee in the lands of a deceased registered owner can, prior to the registration of the title of such relict, heir, or devisee, only be obtained by filing the proper papers with the county recorder as in other cases and the recorder making entry thereof as a memorial on the registered certificate of title of such deceased owner giving the name, residence, and post-office address of the relict, heir, or devisee against whom said lien, charge, or lis pendens is to operate.

This section does not in any way affect or impair the jurisdiction of the probate court to authorize an executor or administrator to sell or convey registered land for any purpose for which authority may be granted in the case of unregistered land. The transferee who takes a deed which is executed in pursuance of such authority to sell or convey shall be entitled to a new certificate of title, or memorandum of registration.