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Setting
the
Scene

An executor is responsible for settling the affairs of someone who dies. In Quebec law, executors are officially called liquidators.

This pamphlet explains the role of a liquidator.

This pamphlet is up to date to
June 9, 2021.

It has general information only. If you need legal advice on a specific situation, consult a lawyer or notary.

Some Vocabulary

In Quebec law, the person in charge of settling the affairs of someone who has died is a “liquidator.”

The property of a dead person, plus amounts owed to or owed by that person, are commonly called the estate. The official term in Quebec law for an estate is “succession.”

A liquidator settling the affairs of the deceased is “liquidating a succession.”

How is a liquidator chosen?

The liquidator can be named in a will. For example, “I name my daughter, Shannon, liquidator of my succession.”

If there is no will, or the will does not name liquidators, the heirs automatically become the liquidators. The heirs are the people entitled to inherit. In this case, they share the responsibilities. They can also name someone to act as the only liquidator through a majority vote.

Who can be a liquidator?

The liquidator can be anyone 18 years old or older, or a trust or savings company (for example, a financial institution).

For a fee, many professionals offer liquidator services, including notaries, lawyers, and accountants.

Can you refuse to be a liquidator?

Usually, you can refuse the role.

If you don’t want to be a liquidator, you must tell your co-liquidators or your replacement, if a replacement is named in the will.

If you are the only liquidator and a replacement is not named in the will, the heirs must name your replacement by a majority vote.

There is one exception to the right to refuse the role: if you are the only heir, you must accept. Remember that you can always get help from a professional.

Can there be more than one liquidator?

Yes. If there are several, the will usually says how decisions will be made. For example, one liquidator can handle practical things like organizing a funeral. A second can take care of more difficult issues, such as taxes. If the will does not specify who does what, the liquidators must act together.

If there is no will, or the will does not name liquidators, the heirs share the responsibilities.

What are the responsibilities of a liquidator?

The liquidator’s responsibilities are usually described in the will. If

the will says nothing about these responsibilities, or there is no will, the liquidator must manage the deceased’s estate according to what the law says. The law includes Quebec’s Civil Code.

Liquidators must act carefully, in a timely way and honestly.

Here are some of the liquidator’s duties:

- make a list of the property and money of the deceased
- close the deceased’s bank accounts
- notify companies and agencies the deceased dealt with (telephone, Medicare, banks, credit cards, etc.)
- take care of the deceased’s property until it is given to the heirs (e.g., keeping it insured)
- file the deceased’s tax returns and pay taxes
- pay other amounts owed
- collect money owed to the deceased (e.g., life insurance, unpaid salary, pension benefits)
- distribute the remaining property to the heirs
- give a final report to the heirs

Does a liquidator have a right to be paid?

Yes. Liquidators have a right to be paid for time they invest in the liquidation. However, liquidators who are also heirs cannot be paid unless the will says they can be paid or the other heirs agree.

Liquidators do not have to pay the costs of liquidation out of their own

pockets. Professional fees and other costs (e.g., fees to do a will search) must be reimbursed by the succession itself. However, liquidators cannot spend unreasonably.

Can liquidators give an item to an heir before the end of the liquidation?

As a general rule, no. If someone gets something before the liquidation process is over, this amounts to accepting the succession ... with all its debts!

If property is given out before making sure there is enough in the succession to pay all debts and all the “legacies by particular title” (leaving a particular thing to a particular person who is not an heir), the heirs will be responsible for paying the debts out of their own pockets!

However, items of sentimental value (e.g., personal papers, medals and diplomas) can be distributed before the liquidation is finished.

What if a liquidator does a bad job?

When liquidators don’t do what they are supposed to do or mismanage an estate, any person with an interest in the estate can ask a court to replace the liquidator. A person with an interest could be, for example, a co-liquidator or an heir.