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About WBS

Williams, Bax & Saltzman, P.C. is a full-service law firm, representing and advising businesses, nonprofits, fiduciaries and other individuals. Our attorneys are committed to providing value-added services to our clients in a cost-effective manner.

Practice Areas

- Commercial Litigation
- Corporate Law
- Labor and Employment
- Real Estate
- Insurance
- Professional Liability
- Estate Planning
- Trust Administration & Probate

A LARGE CHANGE TO THE SMALL ESTATE AFFIDAVIT

When a loved one passes away in Illinois, certain key factors must be looked at to determine whether a probate estate must be opened for them.

On August 15, 2025, Illinois increased the threshold to have to open and administer the estate of an Illinois resident decedent from \$100,000 to \$150,000. If the estate of the decedent includes real estate or collectively more than \$150,000 of personal property in the decedent's name, an estate must be opened. When there is no real estate in the decedent's name and the value of personal property is less than \$150,000 (formerly \$100,000) a device called a small estate affidavit can be used to avoid opening the decedent's estate. Illinois now, for the first time, also excludes the value of vehicles registered in Illinois from calculation of that threshold. While easily overlooked as a minor detail, this update represents a significant improvement in the estate planning process which often seeks to avoid probate.

PROBATE: AN OVERVIEW

Unless an exception applies, a court process called probate is required to divide up assets and resolve any liabilities following a person's death; all of which requires the oversight of a court. Between hiring an attorney to prepare and file various documents, waiting for court approval, and providing notice to beneficiaries and creditors, among other operations, probate typically takes no less than seven-twelve months, and can last longer. The Probate process requires certain public disclosures and often carries costs that further drain the assets of the estate. Furthermore, and most importantly, this expensive and time consuming process is made harder by the grief that accompanies the death of a loved one. As a result of these factors, structuring one's estate to avoid probate should be part of every estate plan.

Probate can be avoided in a variety of ways, such as 1) placing an asset in a trust; 2) re-titling an asset so that it is co-owned with rights of survivorship; or 3) including a "pay on death" or asset, or, in the second scenario, the co-owner, to the extent that they outlive the other person, fully owns the asset. Similarly, beneficiary and pay on death designations direct the financial institution to distribute the asset directly to the named beneficiary. In each of these cases, there typically is no need for court administration because the asset already does not technically belong to the estate of the deceased. As a result of this planning, the asset avoids falling into the probate process, saving the estate both time and money. Note, however, that there may be scenarios where probate is actually preferred; for example, to discover and resolve unknown claims that may otherwise arise after all of the assets have already been distributed.

A USEFUL TOOL: THE SMALL ESTATE AFFIDAVIT

Another tool that allows one to avoid probate is the Small Estate Affidavit. In short, each state determines a threshold or "floor" for an estate to enter probate to avoid requiring the time and money required by probate where significant assets are not at issue. Following a statement under oath (an "Affidavit") that the value of estate falls below this floor, as well as other disclosures regarding the nature of the assets,

Recent WBS Cases

TRADE SECRETS DISPUTE

Tom Koessl helped to obtain a ruling that granted a boiler manufacturing company over \$2.4 million in damages in its dispute with a former employee regarding trade secrets. The Court permanently enjoined the Defendant company and its agent from further interfering with our client's Confidential Information. Moreover, due to the Defendants' wanton disregard for Court authority, Koessl and his team won a sanctions motion against them, resulting in a \$750,000 fine

FRAUD CLAIM DISMISSED IN EMPLOYMENT DISPUTE

Kerry Saltzman recently obtained a ruling dismissing a fraud claim brought against a local Japanese restaurant by its former employee. The Court ruled that the employee's claim, while possibly valid, was not pled with sufficient particularity to meet the standards for pleading fraud.

WBS PARTNER AS EXPERT WITNESS IN INSURANCE TRIAL

Rob Muriel testified recently as an expert witness in the field of insurance regulation in a trial pending in the Southern District of Indiana. The case concerned a class action lawsuit filed on behalf of life insurance policyholders against the parent company of a life insurer.

JUDGMENT AFFIRMED BY APPELLATE COURT

The First District Appellate Court recently affirmed a trial judgment in favor of an international online retailer, represented by David Strubbe, which held that Plaintiff's former employer did not breach his employment contract or violate the Illinois Wage Payment and Collection Act by refusing to pay a sign-on bonus to employee who failed to commence employment during the requisite period to earn the bonus.

liabilities, creditors and heirs of the deceased person's estate, the administrator of the estate is allowed to work with third parties who can rely and act upon such an affidavit to distribute the assets of the estate unencumbered by the formalities of probate.

The recent increase to the probate floor and exemption of registered vehicles allows for greater flexibility in estate planning as individuals can leave a larger amount out of their trusts and other probate-protective instruments.

A well-planned estate, particularly when coupled with a clear and specifically tailored will and trust could be—and often is—the difference between a short, relatively inexpensive process and a years-long probate with tens of thousands of dollars spent.

At Williams, Bax & Saltzman, P.C., our attorneys remain on the cutting edge of new developments in the trust and estate planning field. Call (312) 372-3311 with any questions or to begin the process of creating or updating your estate plan.

NEW ILLINOIS LEASE DISCLOSURE OBLIGATIONS

The Illinois Landlord and Tenant Act was updated in a 2025 amendment requiring landlords to make certain disclosures regarding flooding in almost every lease and lease renewal. These disclosures include an acknowledgement as to the rental property's location within or outside a FEMA Special Flood Hazard Area (a "100-year floodplain"), and a ten-year history of flooding with regard to first floor or garden unit rentals. Note that the law does not differentiate between commercial and residential leases.

Notably, failing to properly incorporate these disclosures in lease documents permits a tenant to terminate their lease with thirty days' notice. The emergence of these new requirements allowing a statutory "escape" of a lease could cause significant waves if landlords do not take care to address these new disclosure requirements.

A further issue regarding this change is the temporal nature of the disclosure—how can a landlord disclose the necessary flooding history of a rental property if they have owned it for less than ten years? Requests for surveys with flood map information and seller representations and warranties regarding ten years of flood history should become more common during the acquisition of rental properties for diligent buyers as a result of this statute.

To determine if your rental property is located within a FEMA Special Flood Hazard Area, use the interactive map function at:

<https://msc.fema.gov/portal/search>.

To avoid the potentially damaging issues in your leases that may arise from small statutory updates such as this one, call the real estate attorneys at Williams, Bax & Saltzman, P.C. at (312) 372-3311 with any questions or to begin the process of addressing issues regarding your rental properties and leases.

SPECIAL MENTION: PROJECT BEACON

WBS would like to congratulate Arnie Dratt and the U.S. Professional Squash Association Foundation (US PSAF) in all their hard work to make the vision of Project Beacon a reality. Project Beacon is the very first publicly accessible outdoor squash court in the United States. Opening June 7th, 2025 in Union Park, the court will offer Chicago residents the opportunity to play this exciting game in a public setting. The walls of the Beacon court will feature a rotating collection of art works by a wide range of artists, varying from professionals to youth. WBS partners David Williams (an avid squash player himself) and Andy Arons are very proud to have offered their counsel to the US PSAF in this endeavor. WBS is pleased to congratulate the U.S. Professional Squash Association Foundation on bringing Project Beacon to life. Hopefully this is the first of many publicly available outdoor courts leading up to squash's debut in the Olympics in '28

NEW JOB POSTING REQUIREMENTS FOR ILLINOIS EMPLOYERS

Illinois Employers with more than 15 employees are now required to include pay scales and benefits information in job postings. Below is a summary of these new requirements.

CONTENT OF JOB POSTING

The Illinois Equal Pay Act was amended this year to require employers with 15 or more employees to provide “pay scale and benefits” in certain job postings. Pay scale and benefits are defined as “the wage or salary, or the wage or salary range, and a general description of the benefits and other compensation, include bonuses, stock options and other incentives the employer reasonably expects in good faith to offer for the position.” The wage or salary must be set according to an “applicable pay scale, the previously determined range for the position, the actual range of others currently holding equivalent positions, or the budgeted amount for the position.”

In identifying wage or salary in the job posting, an employer may post: (1) the exact wage/salary for the position; (2) a maximum and minimum range of the wage/salary; or (3) an estimate of the wage/range. A range of pay is acceptable so long as the range includes “the lowest to the highest pay the employer actually believes it might pay for the particular job, depending on circumstances such as employee qualifications, employer finances, or other operational considerations.”

The pay transparency law applies to any type of notification by an employer regarding a specific job opportunity. This includes a notice of an open position that is posted on a bulletin board as well as e-mails issued to employees about available positions.

REMOTE EMPLOYEES

The amendment applies not only to those positions that will be physically performed in Illinois, but also any position that will be physically performed outside of Illinois if the employee reports to a supervisor, office, or other work site within Illinois.

JOB POSTINGS BY THIRD-PARTIES

If an employer utilizes a third-party to make job postings, an employer is required to provide the third-party with the “pay scale and benefits, or a hyperlink to the pay scale and benefits” to include in the job posting.

OPPORTUNITIES FOR PROMOTION

Employers must notify its current employees of all opportunities for promotion “no later than 14 calendar days after the employer makes an external job posting for the position.

RECORDKEEPING REQUIREMENTS

Employers must also create and maintain records of the “pay scale and benefits for each position,” including the job posting for each position, for a period of not less than 5 years.

ENFORCEMENT & PENALTIES

The Illinois Department of Labor (“IDOL”) is charged with enforcement of the amendment. If any job posting is non-compliant with the Act, the IDOL will grant an employer 14 days to remedy a violation for a first offense or 7 days for a second offense. Following a third offense, an employer will not have the opportunity to remedy the violation and will result in an automatic fine. Fines for violating the amendment will range from \$250.00 for the first offense to \$10,000 for a third and any subsequent offense.

Information contained in this publication is intended for information purposes only and does not constitute legal advice or opinion, nor is it a substitute for the professional judgment of an attorney.