

Rule 110. Explanation of Rights in Independent Administration; Form of Petition to Terminate

Rights of Interested Persons During Independent
Administration; Form of Petition to Terminate
Administration

A copy of an order is enclosed granting independent administration of decedent's estate. This means that the executor or administrator will not have to obtain court orders or file estate documents in court during probate. The estate will be administered without court supervision, unless an interested person asks the court to become involved.

Under section 28-4 of the Probate Act of 1975 (755 ILCS 5/28-4) any interested person may terminate independent administration at any time by mailing or delivering a petition to terminate to the clerk of the court. E-filing is now mandatory for documents in civil cases with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit <http://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit <http://www.illinoiscourts.gov/FAQ/gethelp.asp>, or talk with your local circuit clerk's office.

However, if there is a will which directs independent administration, independent administration will be terminated only if the court finds there is good cause to require supervised administration; and if the petitioner is a creditor or nonresiduary legatee, independent administration will be terminated only if the court finds that termination is necessary to protect the petitioner's interest.

A petition in substantially the following form may be used to terminate independent administration:

In the Circuit Court of the _____ Judicial Circuit,
_____ County, Illinois
(Or, In the Circuit Court of Cook County, Illinois)

In re Estate of _____, Deceased
(name of decedent)

No. _____

Petition to Terminate Independent Administration

_____, on oath states:

1. On _____, 20__, an order was entered granting independent administration to _____ as independent _____.

(executor) (administrator)

2. I am an interested person in this estate as

(heir) (nonresiduary legatee) (residuary legatee) (creditor) (representative)

*3. The will _____ direct independent administration.

(does) (does not)

4. I request that independent administration be terminated.

(Signature of petitioner)

Signed and sworn to before me

_____, 20__

Notary Public

*Strike if no will.

In addition to the right to terminate independent administration, any interested person may petition the court to hold a hearing and resolve any particular question that may arise during independent administration, even though supervised administration has not been requested (755 ILCS 5/28-5). The independent representative must mail a copy of the estate inventory and final account to each interested person and must send notice to or obtain the approval of each interested person before the estate can be closed (755 ILCS 5/28-6, 28-11). Any interested person has the right to question or object to any item included in or omitted from an inventory or account or to insist on a full court accounting of all receipts and disbursements with prior notice, as required in supervised administration (755 ILCS 5/28-11).