

How Consumer Reports Analyzed the Probate Advance Industry

Consumer Reports investigated the obscure world of probate advances—where companies provide cash advances to the beneficiaries of estates in probate court in exchange for a piece of their inheritance to be paid out when the case is completed.

As part of the reporting for the article "[How One Obscure Industry Makes Money off the Dead](#)," CR analyzed public, readily available probate advance contracts from eight states. CR used Lexis CourtLink, a database that houses millions of federal and state court dockets and documents, to identify probate contracts. Search terms were limited to 38 probate companies as identified through literature review, online searches, and court document reviews. CR also used Google searches to identify individual courts that publish probate court documents online, and pulled relevant probate contracts where available.

Our analysis was conducted in January and February 2021, and in order for this analysis to be original, we excluded cases examined by University of California, Davis, law professor David Horton, et al., in studies of Alameda and San Francisco counties in California. In total, we identified 239 advance contracts from 50 probate cases filed between 2002 and 2020.

We calculated an effective annual percentage rate, or APR, for 168 completed contracts from seven states associated with cases that have been paid out using the following formula:
 $\{[(A-B)/C] \times 365\}/B$

A represents the amount received by the company, B is the cash advance amount, and C is the number of days between when the advance was issued and when repayment was received. This formula was vetted by CR's statisticians.

A probate advance's issue date was defined as the date it was officially recognized in the relevant probate court case. The date of repayment was defined as the date the judge entered a final order issuing the final payout to beneficiaries and the probate case complete. In cases where the final order was not available, the date of repayment was defined by the filing date or last date available on the court docket.

Although companies can receive partial payouts before a case is complete in some cases, we considered the payouts as one total sum. This resulted in conservative effective APR calculations.

Our analysis has limitations. This analysis might not be a reflection of how the probate advance industry functions nationally and covers only what a limited group of individuals have received. All conclusions are based on a small convenience sample because of the limited information on probate cases readily available online and through CourtLink. Beneficiaries may be entitled to a small cash rebate if a probate case is completed in a set time frame, but the court records are rarely clear on whether a rebate was paid out by the company. For the sake of simplicity, CR assumed no rebates were paid, which may in some rare cases lead to a slight overestimation of the APR.