



Office of the Fiduciary Supervisor

Kanawha County Commission

P.O. Box 3627, Charleston, WV 25336

(304) 357-0125

Overview of the Estate Administration Process

The Estate of a deceased person is administered in a **three-step process**, as follows:

STEP 1: The Appointment

Begin by filling out either the “Probate Checklist With or Without Will,” following those guidelines. Once filled out, and all of the necessary information is provided, the personal representative must come in person to the probate office to be appointed over the decedent’s estate.

The **Appointment** is for a personal representative to serve as the Fiduciary over the Estate. The Fiduciary is called an Executor/Executrix if named as such in the Last Will and Testament of the decedent. They are called an Administrator/Administratrix if there is no Will or if the Will does not name a Fiduciary. The appointment of the Fiduciary will normally be made within 30 days from the date of death. Being appointed as Personal Representative does not entitle inheritance, unless listed as an heir on the “Affidavit of Heirs.”

This first step takes about an hour to an hour and a half, at least, to complete. Please, plan accordingly. Again, this is the only step that must be done, in person, in our office. Everything else can be sent back by mail.

STEP 2: The Appraisal

The filing of the **Appraisal** of the Estate. The Appraisal is the form created by the State Tax Department to gather information about all of the assets of deceased persons. The Fiduciary must return the appraisal within 90 days after the date of appointment. **Failure to comply with this requirement to return the appraisal by the due date, constitutes a \$10.00 late fee and you could be subject to a misdemeanor which may result in prosecution and a fine up to \$500.00.**

This form is standard for the entire state and requires a complete listing of all assets held in the decedent’s name alone and/or held jointly with any other living person. Once the appraisal is received, it will be recorded in the County Clerk’s Office and it will publish in the newspaper on the first two Wednesday’s of the next month. The publication will name the decedent, the Fiduciary, and the address of the Fiduciary. The publication of the Appraisal is to give notice to creditors that the **90 period for filing claims against the estate** has begun.

The fiduciary should wait till the 90 day claim period is over to see if there is enough money in the estate to pay for all the claims. If there is no money in the estate to cover the claims, the fiduciary will be sent a letter with instructions on how to proceed. If there are claims filed and there is money in the estate to pay those claims, then the fiduciary will pay those claims and have the creditor fill out a notarized release form, which states that the claim has been paid. (This Release form is on our website or can be picked up in our office.) The Office of Fiduciary

Supervisor must have the original release form in order to proceed with the 3rd step of probate (make sure the Notary uses their seal).

If the fiduciary pays debt out of the order designated, then the fiduciary can be held personally liable for any and all debt that comes in, regardless of there being money in the estate or not. Anything that was in the decedent's name alone, is subject to be sold for debt before any distribution can be made.

STEP 3: The Settlement

The final **Settlement** of the Estate. At the end of the claims period, if there are no outstanding claims, a “**Short Form Settlement**” will be mailed to the Fiduciary to be completed and signed before a Notary by the Fiduciary and each of the beneficiaries (make sure the Notary uses their seal for each signature). By the beneficiaries signing, they are showing that the fiduciary has handled the estate properly and it waives their right to an accounting of the estate.

If there are **outstanding claims, or if the beneficiaries do not agree on the distribution proposed by the Fiduciary, then the Estate must close using the “Long Form Settlement,” which gives an accounting of the estate.** Once the Office of the Fiduciary Supervisor receives the settlement report and recording fee(s), it will be recorded at the County Clerk's Office, and the names of all Estates ready to be closed will be published in the newspaper on the first Monday of the succeeding month. If there are no objections, **all estates advertised will close by an order of the Kanawha County Commission on the last Thursday of the month in which the newspaper notice was published.**

The **distribution** of the assets to the beneficiaries should take place after the filing of the Short Form settlement has been turned into our office, and before the date that the County Commission signs the order to close the Estate. The Long Form settlement distribution should be made after the accounting has been turned into our office, and before the date that the County Commission signs the order to close the Estate. The order terminates the powers and appointment of the Fiduciary and closes the Estate. These forms are to be completed as soon as possible to avoid any future fines or misdemeanor charges.

There are fees for each step of the probate process that must be paid to our office, either by cash, check, or money order, payable to the Kanawha County Fiduciary Fund.

IF there is enough money in the estate, AND the fiduciary has paid for our fees or the bond out of their own pocket, they may reimburse themselves for the bond or our fees.

Step 1: Our fees range from **\$75-\$300.**

(Based on everything that the decedent's name was on at the time of death.)

This will be separate from a bonding fee, if that is required for the estate.

(Based on everything that was in the decedent's name alone at the time of death.)

Step 2 and 3: Our fees will range from **\$20-\$30.**