



Boone County Clerk

200 State Street
Madison, WV 25130

Phone (304) 369-7335

Fax (304) 369-7329

ROGER TONEY, CLERK



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 calling the Probate Office to make an appointment to 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.

Bring to the Appointment:

1. **Original Will or Surety Bond** (If there is no will, one of the following can assist you in obtaining a surety bond: Ferrell & Hill (304)369-1111; Lilly's Insurance (304)369-0871; WSB Insurance Services (304)837-3200.). If you are the sole heir of an intestate (no will) estate, a bond is not required.
2. **Death certificate**
3. **Opening fee of \$51.50**
4. **List of heirs and corresponding addresses**
5. **List of assets including: vehicles, stocks, savings bonds, cash, bank accounts, IRAs, certificates of deposit, and property records, as well as tax receipts** (amounts are based on asset value at the time of death.)
6. **Life insurance or death benefit:** (Must include name, value, and to whom the policy is payable.)

We accept cash, money order, or cashier's checks, as well as all major credit cards. All checks should be made payable to the Boone County Clerk. Out of state checks are not accepted.

STEP 2: THE APPRAISEMENT

The Appraisement is the form created by the Probate Office to gather information about all of the assets of deceased persons. Most often, these form are completed at the time of the appointment. The Fiduciary must return the appraisement within 60 days after the date of appointment. **Failure to comply with this requirement to return the appraisement by the due date may constitute a late fee, and you could be subject to a misdemeanor which may result in prosecution and a fine up to \$500.00.**



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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. Assets may include real estate, bank accounts, Certificates of Deposit, bonds, stocks, cash, personal belongings (including jewelry), and vehicles.

Once the appraisal is received, it will be recorded in the County Clerk's Office and the estate notice will be published in the newspaper (the Coal Valley News) on the first two Wednesdays 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 **60-day period for filing claims against the estate** has begun. Any claims **not** filed during this period can never be collected.

If there are claims against the estate, the creditors will notify the Probate Office, and fiduciary will be sent a notice. The Fiduciary will mark on the notice whether he or she agrees with the claim. Those claims will be paid from the Estate assets, and the creditor will fill out a notarized release form, which states that the claim has been paid. 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.

At this point, each of the heirs will receive a copy of the will via Certified Mail, along with a letter notifying them they are beneficiaries of the deceased's will.

STEP 3: THE SETTLEMENT

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. This form is to be mailed back to the Probate Office, and the heirs will be notified that the Estate is closed.

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 Probate Office receives the settlement report and recording fee (\$11), it will be recorded at the County Clerk's Office, and the heirs will be notified.

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.