WEST VIRGINIA CODE: §44-1-4

§44-1-4. Appointment of intestate administrator; affidavit of heirs of nonresident intestate decedent without appointment of intestate administrator.

(a) When a person dies intestate the jurisdiction to hear and determine the right of administration of his or her estate shall be in the county commission or clerk thereof during the recess of the regular sessions of the county commission which would have jurisdiction as to the probate of his or her will, if there were one. Administration shall be granted to the distributees who apply therefor, preferring first the husband or wife, and then such of the others entitled to distribution as the county commission or clerk shall see fit. If no distributee apply for administration within 30 days from the death of the intestate, the county commission or clerk may grant administration to one or more of the creditors of the decedent, or to any other person who shall be fit.

(b) Notwithstanding the provisions of subsection (a) of this section:

(1) Any person having an interest in real estate situate in this state that was seized and possessed by a decedent who was a nonresident of this state and who has died intestate without any will, including a personal representative who has qualified in another state or jurisdiction, for which no appointment of an ancillary personal representative or administrator to administer the real estate within this state is necessary for any proper purpose may execute and tender for recording in the county an affidavit setting forth in substance:

(A) A description of the real estate owned by the nonresident decedent at the time of his or her death situate within the county where the affidavit is to be recorded together with its assessed value for tax purposes and its fair market value at the date of death of the decedent;

(B) That the nonresident decedent died intestate without any will presented or probated in this state or in any other state or jurisdiction;

(C) That more than 60 days have passed since the death of the decedent and no personal representative or administrator of the decedent’s estate has been otherwise appointed in this state for any proper purpose; and

(D) The names and last known addresses of the decedent’s heirs at law determined under the laws of this state entitled to the real estate situate in this state.

(2) The clerk of the county commission shall record and index the affidavit in the same manner and upon the same fees as affidavits of heirs are recorded and indexed in case of intestate administration with appointment of a personal representative. The clerk of the county commission may require a certified copy of the decedent’s death certificate or other

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proof of death and residence prior to fulfilling the clerk's responsibilities under this chapter.

(3) A bond, security, or oath is not required when no appointment of an ancillary personal representative or administrator is made under the provisions of this section.

(c) A document substantially in the following form may be used as the affidavit provided in subsection (b) of this section with the effect as prescribed in this section:

THE COUNTY COMMISSION OF _____ COUNTY, WEST VIRGINIA

IN RE: THE ESTATE OF _____

DOD: _____

AFFIDAVIT FOR ANCILLARY ADMINISTRATION

OF WEST VIRGINIA REAL ESTATE

WITHOUT APPOINTMENT

(INTESTATE)

STATE OF _____,

COUNTY OF _____, to-wit:

I, _____, whose address is _____

_____, being first duly sworn, upon oath and under penalty of perjury, do depose and say as follows:

1. The decedent, _____, died on _____(date of death), a resident of _____ County, State of _____. The decedent has left no will so far as I know, and no will of the decedent has been presented or probated in this state or in any other state or jurisdiction.
2. More than 60 days have passed since the death of the decedent and no personal representative or administrator of the decedent's estate has been otherwise appointed in the State of West Virginia for any proper purpose.
3. A certified death certificate has been furnished herewith for filing in this County.
4. The Decedent died owning and possessing the following real estate situate in West Virginia:

	Description	County	Assessed Value	Fair Market value
a.				

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b.
c.
d.
Total

5. The decedent, _____, left as his/her heirs at law in accordance with the laws of intestate descent and distribution of the State of West Virginia the following persons:

a. Name: _____

Address: _____

Relationship to Decedent: _____

Share or percentage: _____

b. Name: _____

Address: _____

Relationship to Decedent: _____

Share or percentage: _____

c. Name: _____

Address: _____

Relationship to Decedent: _____

Share or percentage: _____

d. Name: _____

Address: _____

Relationship to Decedent: _____

Share or percentage: _____

6. No appointment of an ancillary personal representative to administer the decedent's real estate within the State of West Virginia is necessary for any proper purpose.
7. I have personal knowledge of the above facts and am interested in the Estate of _____, the decedent, as the ( ) acting domiciliary personal representative,

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( ) surviving spouse, ( ) beneficiary under the decedent's will, ( ) heir at law, or ( ) other _____ (describe relationship or interest). [Check one]

_____

Signature of Affiant

Taken, subscribed, and sworn to before me the undersigned authority by _____, this day of_, 20___.

{seal}

My Commission expires: _____

_____

Notary Public

WV Legislature