# WEST VIRGINIA CODE: §44-1A-1

**§44-1A-1. Short title; definitions.**

(a) This article may be cited as the West Virginia Small Estate Act.

(b) For the purposes of this article, the following definitions apply:

(1) “Authorized successor” means the successor of a decedent who files an affidavit and is certified and authorized by the clerk of the county commission or the fiduciary supervisor thereof, pursuant to the provisions of this article.

(2) “Interested Person” means heirs, devisees, distributees, legatees, children, spouses, or creditors of the decedent and beneficiaries and any others having a property right in or a claim against the estate of a decedent or property in a small estate. Interested persons include persons having priority for appointment as a personal representative and other fiduciaries representing interested persons. An interested person may also include a bank, financial institution, credit union, or person that is holding assets related to the estate.

(3) “Person” means any individual, corporation, business trust, fiduciary, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation, or any other legal or commercial entity.

(4) “Small asset” means any probate personal property or asset belonging or presently distributable to the decedent having a fair market value on the decedent’s date of death of not more than $50,000. A small asset includes, but is not limited to, cash, a bank account, a savings institution account, a credit union account, a certificate of deposit, a brokerage account, stock, a mutual fund, a security, a bond, a note, a promissory note, an obligation, an instrument evidencing a debt, indebtedness owed to the decedent, proceeds of life insurance payable to the estate, a deposit, a refund, a tax refund, an overpayment, a chose in action, or an item of tangible personal property including a motor vehicle. A small asset does not include real estate or an interest in real property. A small asset does not include a nonprobate asset of the decedent which would not be subject to administration in the decedent’s probate estate.

(5) “Small estate” means a probate estate of a decedent who died domiciled in this state in which: (A) The total aggregate fair market value, on the decedent’s date of death, of all probate personal property and all probate personal assets does not exceed $50,000; and (B) the total aggregate fair market value on the decedent’s date of death of all real estate or interests in real property situate in this state of which the decedent owned or was seized or possessed does not exceed $100,000, excluding any real estate of the decedent which was held in any nonprobate form. For the purposes of this article, the fair market value of real estate shall be presumed to be 167 percent of the current assessed value of the real estate

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on the land books as reported by the assessor of the county in which the real estate is situate. It is provided, however, that a probate estate of a testate decedent in which the decedent's will provides for real estate devised to be sold and not a mere power to sell the decedent's real estate shall not be considered to be a small estate.

(6) "Successor" means any person, other than a creditor, who is nominated as a personal representative or executor under the provisions of the will of the decedent, or who is entitled under the provisions of the decedent's will or the laws of intestate descent and distribution of this state to a part or all of a small asset of the decedent.

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