WEST VIRGINIA CODE: §44-2-1

§44-2-1. Reference of decedents' estates; proceedings thereon.

(a) Upon the return of the appraisement by the personal representative to the county clerk, the estate of his or her decedent, by order of the county commission, must be referred to a fiduciary commissioner for proof and determination of debts and claims, establishment of their priority, determination of the amount of the respective shares of the legatees and distributes, and any other matter necessary for the settlement of the estate: *Provided*, That in counties where there are two or more commissioners, the estates of decedents must be referred to the commissioners in rotation, so there may be an equal division of the work. Notwithstanding any other provision of this code to the contrary, a fiduciary commissioner may not charge to the estate a fee greater than $300 and expenses for the settlement of an estate, except upon: (i) Approval of the personal representative; or (ii) a determination by the county commission that the fee is based upon the actual time spent and actual services rendered pursuant to a schedule of fees or rate of compensation for fiduciary commissioners promulgated by the commission in accordance with the provisions of §59-1-9 of this code.

(b) If the personal representative delivers to the clerk an appraisement of the assets of the estate showing their value to be $200,000 or less, exclusive of real estate specifically devised and nonprobate assets, or if it appears to the clerk that there is only one beneficiary of the probate estate and that the beneficiary is competent at law, the clerk shall record the appraisement. If an unpaid creditor files a claim against the estate, the personal representative has 20 days after the date of the filing of a claim against the estate of the decedent to approve or reject the claim before the estate is referred to a fiduciary commissioner. If the personal representative approves all claims as filed, then no reference may be made.

(c) The personal representative shall, within a reasonable time after the date of recordation of the appraisement: (i) File a waiver of final settlement in accordance with the provisions of §44-2-29 of this code; or (ii) make a report to the clerk of his or her receipts, disbursements, and distribution and submit an affidavit stating that all claims against the estate for expenses of administration, taxes, and debts of the decedent have been paid in full. Upon receipt of the waiver of final settlement or report, the clerk shall record the waiver or report and mail copies to each beneficiary and creditor by first-class mail, postage prepaid. The clerk shall retain the report for 10 days to allow any beneficiary or creditor to appear before the county commission to request reference to a fiduciary commissioner. The clerk shall collect a fee of $10 for recording and mailing the waiver of final settlement or report.

(d) If no request or objection is made to the clerk or to the county commission, the county commission may confirm the report of the personal representative, and the personal representative and his or her surety shall be discharged; but if an objection or request is made, the county commission may confirm and record the accounting or may refer the estate to its fiduciary commissioners: *Provided*, That the personal representative has 20 days after

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the date of the filing of a claim against the estate of the decedent to approve or reject the claim before the estate is referred to a fiduciary commissioner, and if all claims are approved as filed, then no reference may be made.

(e) For purposes of this section, the term beneficiary means a person designated in a will to receive real or personal property.

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