WEST VIRGINIA CODE: §44-2-19A

§44-2-19a. Reports of delinquent filings and administrative closing of unprogressed estates.

(a) On the last day of December and June of each year every fiduciary commissioner shall file with the county clerk a list of all estates referred to him or her since the effective date of this section, either generally or for a limited purpose, in which any document required to be filed with him or her in a specified time has not been timely filed, stating the document whose filing is delinquent and the date the same was due to be filed: Provided, That the commissioner shall omit from such list any estate and any document for whose filing a proper continuance has been granted.

(b) On January 5 and July 5 of each year the county clerk shall file with the county commission a like list of estates since the effective date of this section in which the filing of any paper is delinquent, and embrace therein the lists required to be filed with him or her on the first day of such month by the various commissioners. In the report filed July 5 of each year the county clerk shall further include in the report a list of all estates referred to him or her since the effective date of this section which have not been duly closed within a period of three years from the opening of such estate and in which no progress, or in his or her opinion, unsatisfactory progress, has been made toward settlement, for any cause, within the preceding 12 months.

(c) The county commission shall, upon the presentation by the county clerk of all matters and causes reported to it by the semiannual reports required herein of delinquent and unprogressed estates, enter an order in the name of the county commission directing the appointed personal representative to file a statement to show cause why the county commission should not find the personal representative delinquent in his or her administration of the respective estate and should not remove the personal representative from office, administratively close the estate, or take such other action against the personal representative as may be proper:

(1) The order to show cause shall be mailed by the county clerk to the personal representative at the last known address appearing in the records of the county clerk and a copy thereof shall also be mailed to the heirs at law, beneficiaries under the will, any creditors who have filed claims which are not released, any surety on any bond, and any other person interested in the estate at their last known addresses appearing in the records of the county clerk.

(2) The personal representative shall have 30 days after the mailing of the order to show cause to file properly any delinquent documents required for the administration of the estate or to file a verified statement under oath stating why he or she should not be found delinquent in the administration of the respective estate and should not be removed from office or the estate administratively closed.

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(3) If within such 30-day time period the personal representative fails to file properly the delinquent documents or fails to file a verified statement or files a verified statement which the county clerk upon review finds and determines does not present good cause, the county clerk shall give notice of such failure, delinquency, or finding to the county commission, the personal representative, the heirs at law, beneficiaries under the will, any creditors who have filed claims which are not released, any surety on any bond, and any other person interested in the estate and shall advise that the personal representative shall be removed from office and such other appropriate person appointed as personal representative as the county commission may determine or that the estate shall be administratively closed 30 days following the date of such notice at a hearing thereon to be held before the county commission at a date and time fixed for presentation. In addition, on the first Monday of the next month, the county clerk shall publish as a Class I-0 legal advertisement, a notice thereof.

(4) The personal representative or any person interested may file objection thereto at or prior to the time set by such notice for presentation thereof to the county commission. The commission shall proceed to hear the presentation of such proposed removal or closing and findings and hear interested parties, if any appear, and may enter such appropriate order to approve, modify and approve, or refuse to approve such proposed removal or closing and the findings of the county clerk. An appeal from the decision of such county commission may, without any formal bill of exceptions, be taken to the circuit court of the county by the personal representative or any interested party. The appeal shall be tried and heard in the circuit court, or before the judge thereof in vacation, on the record made before the county clerk and the county commission.

(d) In addition, the county clerk and the fiduciary commissioners, shall be empowered, and where appropriate, may, on their own motion, petition the circuit court to compel compliance with the provisions of this chapter, in the same manner and to the same extent heretofore provided in the case of commissioners of accounts, or by any other proper proceeding.

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