WEST VIRGINIA CODE: §44-3A-19

§44-3A-19. Long form settlement before fiduciary supervisor.

(a) At any time after the expiration of the period for filing claims, the fiduciary supervisor may proceed with a complete long form settlement under this section if the estate has not been referred to a fiduciary commissioner or if the estate, having been referred to a fiduciary commissioner generally or for a specific reason, has been withdrawn and placed before the fiduciary supervisor for settlement.

The fiduciary supervisor shall require that the personal representative, or the personal representative may on his or her own motion, timely file a proposed long form settlement which shall include:

(1) Proof of payment of all claims filed against the estate or proof that payment has been provided for;

(2) Verification under oath that the personal representative, after exercise of due diligence, knows of no other claims against the estate;

(3) Verification and accounting of any income received by the personal representative from the benefit of the estate;

(4) Provisions for the payment of all taxes due from the estate or proof that all such taxes have been paid;

(5) A proposed plan of distribution; and

(6) Any and all other information deemed appropriate by the fiduciary supervisor.

(b) The provisions of this section to the contrary notwithstanding, any claim paid by the personal representative to any creditor or beneficiary before the expiration of the period for filing claims shall not abrogate in any way the liability of the personal representative pursuant to §44-3A-26, §44-3A-27, or §44-3A-28 of this code.

(c) At the time the proposed settlement is filed, or prior thereto, the personal representative shall prepare and furnish to the fiduciary supervisor, and the supervisor shall review, a return of all inheritance taxes due the state, pursuant to §11-11-1 *et seq*. of this code, by reason of the death of the decedent, who shall approve any proper return filed with him or her.

The supervisor shall compare the proposed settlement with any proper inheritance tax return and with the appraisement and any and all other documents deemed appropriate by the supervisor in order to investigate the propriety of the proposed settlement.

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(d) The supervisor may, if he or she considers it appropriate, reject the settlement and give notice in writing to the personal representative of the matters disapproved and the reasons therefor and fix a time, no later than 45 days after the date of the notice, for the personal representative to amend the proposed settlement. The personal representative may, within the time specified by the supervisor, amend the settlement, otherwise satisfy the supervisor of the propriety of all or part of such proposed settlement, or insist on the propriety thereof, with or without amendment thereof.

(e) The supervisor shall, after he or she is satisfied as to the propriety of the settlement or, after the period set by him or her for amendment thereof has expired, prepare a report of his or her recommendations to the county commission with respect thereto and his or her findings and determinations, which shall include his or her findings with respect to:

(1) A proper appraisement has been filed which conforms to the requirements of §44-1-14 of this code;

(2) The claims of creditors have been paid or have been properly provided for in proper order of preference and proportions;

(3) A proper inheritance tax return has been made and the taxes due thereon paid or that payment has been provided for;

(4) Any real property in this state owned by the decedent at the time of his or her death has been properly transferred upon the books of the assessor or that the assessor has been notified of the facts and circumstances sufficient to cause the transfer to be noted upon the books of the assessor;

(5) A proper distribution to the parties entitled thereto has been proposed by the personal representative of the estate;

(6) Minors and other persons under disability who own or are entitled to an interest in the estate are or have been protected; and

(7) Any other matter or matters deemed pertinent by the fiduciary supervisor.

(f) The fiduciary supervisor shall give notice of the proposed settlement and findings to the Tax Commissioner, all creditors whose claims have not been fully paid or otherwise satisfied, and all beneficiaries, which notice shall include a copy of the proposed settlement and shall advise that the subject estate shall be settled according thereto 30 days following the date of the notice. In addition, on the first Monday of the next month, the supervisor shall publish, as a Class I-0 legal advertisement, a notice that the accounts of the personal representative are before him or her for approval.

(g) The notice shall be divided into two sections: Settlements approved and settlements not approved and notice of the date and time that the names shall be presented to the county commission, which date shall not be more than 15 days after the publication. The

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advertisement shall be sufficient if substantially as follows:

NOTICE OF PROPOSED SETTLEMENT OF ESTATES

To the Creditors and Beneficiaries of the within named deceased persons:

I have before me the proposed final settlements of the estates of the following deceased persons, which shall be presented to the county commission of ..... County, at the Courthouse thereof, in the City of ....., on the ..... day of ....., 20..., at ..... o'clock, ...M., which settlements have been presented to me by the fiduciary of the estates and which proposed settlements I have either approved or have not approved as indicated below:

APPROVED

Name(s) of Decedent: .....
.....

.....

NOT APPROVED

Name(s) of Decedent: .....

.....

Any person having any interest in the estate of any deceased person may appear before the county commission at the time and place hereinabove specified and thereupon protect his or her interests as they may appear or else may be forever thereafter barred from asserting such interests.

Given under my hand this ..... day of ....., 20...,

.....

Fiduciary Supervisor

.....County, W. Va.

(h) Any person may examine the proposed settlement in the office of the fiduciary supervisor and file objection thereto at or prior to the time set by the notice for presentation thereof to the county commission. The commission shall proceed to hear the presentation of the proposed settlement and findings and hear interested parties, if any appear, and approve, modify and approve, or refuse to approve the proposed settlement and the findings of the fiduciary supervisor. Alternatively, the commission may refer the cause to a fiduciary commissioner generally for supervision or for the purpose of the resolution of any disputed

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matter.

(i) If no dispute or objection to the proposed settlement has arisen, the fiduciary supervisor shall direct the personal representative to conclude the affairs of the estate as outlined in the proposed settlement or amended proposed settlement. Upon receipt by the supervisor of evidence to his or her satisfaction that all claims including claims of beneficiaries have been satisfied and that all taxes have been paid, he or she shall submit his or her report of the proposed or amended proposed settlement to the county commission for ratification, confirmation, and approval as otherwise provided by law.

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