WEST VIRGINIA CODE: §44-3A-42

§44-3A-42. Fees to be charged by fiduciary supervisor or fiduciary supervisor; disposition of fees.

(a) When necessary solely for the purpose of financing the cost of settling estates, the county commission may authorize the fiduciary supervisor to charge and collect at the time of qualification of the fiduciary of a decedent's estate a fee not to exceed: (1) $25 for all estates in which the gross assets do not exceed $10,000; (2) $100 for all estates in which the gross assets are more than $10,000 and do not exceed $50,000; and (3) $175 for all estates in which the gross assets exceed $50,000. Of the sums collected by the fiduciary supervisor, $5 shall be forwarded to the State Auditor. The moneys so forwarded to the State Auditor shall be deposited in the Office of the Treasurer of the state in the special fund, designated The Inheritance Tax Administration Fund, to be used to defray, in whole or in part, costs incurred by the State Auditor in order to facilitate the prompt administration of the provisions imposed by this article. The remaining amounts shall be deposited in the county fiduciary fund as provided in §44-3A-43 of this code. Such fee shall be paid to include all services of the fiduciary supervisor for the settlement of every such decedent's estate which is settled pursuant to the provisions of §44-3A-19 of this code. All such fees shall also include the cost of publication of the notice required by §44-3A-4 of this code, and the notice required by §44-3A-19 of this code, but shall not include the cost of any mailings or of the cost of recording any documents required to be recorded in the office of the clerk of the county commission by the provisions of this chapter.

In the event the fiduciary supervisor is required to examine and prepare a statement of deficiencies, including reasons for disapproving any of the documents required to be filed by the personal representative of any decedent's estate, he shall charge and collect from such personal representative a fee of $10.

(b) In addition to the fees set forth in subsection (a) of this section, the fiduciary supervisor shall charge a fee to be fixed by the county commission in the manner provided in subsection (c) of this section for conducting hearings, granting continuances of hearings, considering evidence, for drafting recommendations with respect to such hearings and for appearing before the county commission with respect thereto and any other matters of an extraordinary nature not normally included within a summary settlement as contemplated by §44-3A-19 of this code. Such fee shall be used to defray the costs imposed by or incidental to any extraordinary demands by or conditions imposed by a fiduciary or imposed by the circumstances of the estate.

(c) The fiduciary supervisor or fiduciary commissioner shall prepare a voucher for the county commission, which voucher shall be itemized and shall set forth in detail all of the services performed and the amount charged for such service or services. Such voucher shall also indicate in each instance if the service was actually performed by the fiduciary supervisor or fiduciary commissioner or whether such service was performed by an employee or deputy of

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such supervisor or commissioner. All vouchers shall reflect the services rendered pursuant to the initial fee charged and collected as provided in subsection (a) of this section and, in addition thereto, shall indicate those services for which charges are to be made over and above that amount. In the case of any service for which a fee is not fixed by this section, or the fee fixed is based on time expended, the voucher shall show the actual time personally expended by the supervisor or commissioner, to the nearest tenth of an hour. All such vouchers shall be verified prior to submission to the county commission for approval. Upon approval of any such voucher, the same shall be charged against the estate to which the same applies. In reviewing any fee charged by either the fiduciary supervisor or a fiduciary commissioner, the county commission shall consider the following:

(1) The time and effort expended;

(2) The difficulty of the questions raised;

(3) The skill required to perform properly the services rendered;

(4) The reasonableness of the fee;

(5) Any time limitations imposed by the personal representative, any beneficiary or claimant, or by the attendant circumstances; and

(6) Any unusual or extraordinary circumstances or demands or conditions imposed by the personal representative, any beneficiary or claimant or by the attendant circumstances. The county commission may approve any such voucher or may reduce the same, as it deems proper, after considering those matters set forth in this subsection. Any such approval shall be by order of the commission and be entered of record by the clerk of the county commission in the fiduciary record book and the general order books of the commission. In no event shall any fee for any service, whether performed by the fiduciary supervisor or the fiduciary commissioner, be fixed, charged or approved which is based upon or with reference to the monetary value of the estate or of the amount in controversy upon any disputed issue or fact of law.

(d) For every estate other than a decedent’s estate, there shall be charged by the fiduciary supervisor at the time of qualification a fee of $25, which fee shall include all services performed by the fiduciary supervisor with respect to such estate from the time of qualification of the personal representative thereof until and including the filing of the first annual settlement. For each additional or subsequent annual or triennial settlement, the fiduciary supervisor shall charge and collect a fee of $10.

(e) The county commission or other tribunal in lieu thereof shall, by order, establish or fix a schedule of suggested fees or rates of compensation for the guidance of the fiduciary supervisor and any fiduciary commissioner in preparing their respective vouchers for fees other than those fees fixed by any provision of this section or of this chapter. A copy of these fees or rates shall be posted in a conspicuous place in the county courthouse.

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(f) The amendments to this section enacted in the year 2023 shall be effective on July 1, 2023.

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