WEST VIRGINIA CODE: §44-3A-5

§44-3A-5. Reference to fiduciary commissioner; exceptions and limitations.

When the personal representative shall deliver to the fiduciary supervisor, the appraisement required by section fourteen, article one of this chapter, and is notified as to the completeness thereof, the fiduciary supervisor shall, unless otherwise ordered by the county commission, proceed to receive claims and proceed to supervise settlement of the estate.

The county commission shall not remove the estate from supervision by the fiduciary supervisor and no reference to a fiduciary commissioner shall be made if the appraisement, properly completed, shows the total value of all assets included in the estate which are subject to administration (exclusive of real property, unless the will, if any, requires administration thereof) to be $100,000 or less: Provided, That if a dispute arises as to a matter of law or fact, then the matter may be referred to a fiduciary commissioner for the sole purpose of taking evidence as to making a recommendation as to the disputed facts and applicable law in such dispute.

The county commission shall not refer any estate to a fiduciary commissioner:

(a) If the personal representative is also the sole beneficiary of the estate; nor

(b) If the surviving spouse is the sole beneficiary of the estate unless the spouse requests such reference; nor

(c) (1) If all the beneficiaries of the estate advise the fiduciary supervisor by verified writing that no dispute is likely to arise with respect to the administration of the estate; and (2) it appears to the county commission or to the fiduciary supervisor thereof that there are ample assets in the estate to satisfy all claims of creditors and others against the estate and that proper distribution thereof will be made, including the payment of all taxes due thereon; and (3) if the personal representative agrees thereto; nor

(d) If the county commission or fiduciary supervisor, subject to the approval of the county commission, finds that there are ample assets in the estate to satisfy all claims of creditors and others against the estate and that proper distribution thereof will be made including, but not limited to, the payment of all taxes due thereon and that no disputed question of law or fact has arisen or is likely to arise.

The commission shall, before making any reference to a fiduciary commissioner, find by its order that none of the prohibitions contained in this section obtains: Provided, That in any case in which a reference would otherwise be prohibited, the commission may refer a matter for the sole purpose of resolving a disputed question of law or fact or may, if the matter can be resolved expeditiously, permit the fiduciary supervisor to conduct the necessary proceedings and to prepare a recommendation on such disputed question.

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In the event reference is made because of the failure to meet any of the conditions in the preceding paragraph which preclude reference to a fiduciary commissioner, such reference may be made generally or for the sole purpose of determining those matters in dispute. In any event, such reference shall be withdrawn at any time upon the settlement or determination or resolution of the reason or reasons giving rise to such reference or at any other time deemed appropriate by the county commission or by the fiduciary supervisor, subject to the approval of the county commission. If no such reference is made and it is later found that a dispute or other condition has arisen which makes reference to a fiduciary commissioner necessary, then reference to a fiduciary commissioner may be made, either generally or for the settlement, determination or resolution of the dispute or condition and shall, in any event, be later withdrawn at any time required by this section or deemed appropriate by the fiduciary supervisor with the approval of the county commission.

In counties where there are two or more such fiduciary commissioners, the estates of decedents shall be referred to such commissioners in rotation in order that, so far as possible, there may be an equal division of the work.

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