WEST VIRGINIA CODE: §44-4-12a

§44-4-12a. Compensation and expenses of personal representatives.

(a) Personal representatives, as defined in section one, article one, chapter forty-two of this code, shall be allowed any reasonable expenses incurred by the personal representative as such and commissions upon the amount of all the personal estate which is subject to administration, including the income from the personal estate, that is received and accounted for by them and upon the proceeds of real estate that is sold, as follows:

(1) For the first $100,000, at the rate of five percent;

(2) All above $100,000 and not exceeding $400,000, at the rate of four percent;

(3) All above $400,000 and not exceeding $800,000, at the rate of three percent; and

(4) All above $800,000, at the rate of two percent.

(b) Personal representatives also shall be allowed a commission of one percent on the value of real estate that is not sold. Personal representatives also shall be allowed a commission of one percent on all property that is not subject to administration and that is includable for purposes of computing the federal estate tax. Notwithstanding the foregoing, no commission shall be allowed on joint and survivorship property, whether real or personal.

(c) The basis of valuation for the allowance of such commissions on real estate sold shall be the gross proceeds of sale, and for all other property the fair market value of the other property as of the date of death of the decedent. The commissions allowed to personal representatives in this section shall be received in full compensation for all of their ordinary services. If more that one personal representative serves, the total compensation as set forth herein shall be apportioned between them as agreed upon by the personal representatives, or in the absence of an agreement between the personal representatives, or in proportion to the services performed by them.

(d) The commission set forth herein may be denied or reduced by the county commission upon a determination that the personal representative has not faithfully discharged the personal representative's duties. The commission set forth herein may be increased by the county commission upon a determination that the personal representative has performed extraordinary services in discharging the personal representative's duties.

(e) Where the personal representative of an estate is a lawyer who renders professional services, compensation for such professional services in addition to a commission shall not be allowed.

(f) Notwithstanding the foregoing, a testator may deviate from the commissions allowed herein by express language in the testator's last will and testament.

WV Legislature