



Office of the Fiduciary Supervisor

Raleigh County Clerk

215 Main Street

Beckley, WV 25801

Phone: (304) 252-0161 / Facsimile: (304) 252-0163

SMALL ESTATE AFFIDAVIT REQUIREMENTS AND INFORMATION

A Small Estate Affidavit may be used if the decedent's personal property assets do not exceed \$50,000, as well as the real estate is not valued more than \$100,000. Please note that all non-probate assets (held jointly or payable on death) are EXCLUDED.

Please complete this form and return it, along with the required documents and photo identification to our office. You will be notified of your appointment date and time. Please clearly print all of the requested information for easy legibility. Fees for the recording of the small estate affidavit (and any attachments) will range from \$15-\$75.

NAME OF DECEDENT: _____ **DATE OF DEATH:** _____

Required Documents:

➤ **DEATH CERTIFICATE:** Check to confirm the following is correct on the death certificate:

- Verify **Social Security Number** is correct
- County of Residence in **Item 13B** **MUST** be **RALEIGH** County

SUCCESSOR DRIVER'S LICENSE: If you do not have a driver's license, another form of photo identification must be provided.

ORIGINAL WILL (if applicable)

➤ **Authorized Successor:** A nominated executor in a Will, a beneficiary of the Will, or an heir at law in the case that there is no Will, is to be appointed by the Fiduciary Supervisor upon filing the affidavit. This Authorized Successor will act without further probate filings or supervision.

- The Successor does not have to be a resident of West Virginia.
- The Successor must sign an Oath.
- Once appointed, the Successor handles marshalling of assets, paying debts and expenses, and making all distributions to the beneficiaries under the Will or heirs, if no Will.
- If the Authorized Successor breaches his/her duty, he or she is liable to the successors and may be sued within three (3) years from the issuance of the Certificate.

AUTHORIZED SUCCESSOR TO BE APPOINTED:

Name: _____

Best Contact Telephone Number: _____

Mailing Address: _____

Relationship to Decedent: _____

- **Bond:** No bond or security is required to open a Small Estate

- **Timing and Initiation:**
 - Small Estate process cannot be used if a regular probate is currently pending.
 - Small Estate process cannot be started until 30 days have elapsed from decedent's date of death.
 - If there is a Will, the nominated executor has precedence and must be the first to file the Affidavit. In the event the nominated executor is not able to file, then the successor can initiate 60 days from the decedent's date of death.
 - If there is no Will, other Successors can apply and file the Affidavit 60 days from the decedent's date of death.

- **Responsibilities of the Fiduciary Supervisor's Office:** Upon receiving the completed Affidavit (this process can be handled in person or through the mail) and all information is in order, the Probate Department will issue a *Certificate and Authorization of Small Estate to an Authorized Successor* which essentially takes the place of a Letter of Administration. The certificate is good for 6 months only. However, the Successor can file an extension if needed, but it cannot exceed an additional 6 months. After mailing and issuance of the certificate, the Fiduciary Supervisor's role ends unless an interested party files an objection. There is no further ongoing supervision, filings, or reporting to the Probate Department.

- **Creditor Rights:**
 - Creditors cannot file claims with the Fiduciary Supervisor Office. All claims must be filed in the Magistrate or Circuit Court.
 - WV Code provides that creditors of a small estate have the same right as provided to that of a full probate.
 - Creditors have two (2) years from the distribution of the estate to seek recovery against and/or sue the distributees or legatees who received assets.
 - Creditors are to deal directly with the Authorized Successor to handle and satisfy claims.

- **IN CASE OF NO WILL, LISTING OF HEIRS (The bloodline must always lead to living heirs):**
 - **Names, relationship and mailing address for all heirs.**
 - West Virginia law dictates that before an appointment over an estate can occur, that bloodline heirs to the decedent must be shown by providing **complete mailing addresses for all heirs (even if it is a last known mailing address).**
 - **The bloodline is as follows:**
 - **SPOUSE:** Only if there are no children born prior to the current marriage. If there are children born prior to the current marriage, list those children first, then the spouse.
 - **CHILDREN:** Includes any children born prior to the current marriage. If there is a pre-deceased child, you must provide, by a complete mailing address, that child's children, because the bloodline must be continued to show living heirs. Any children who were legally adopted by the decedent or adopted by the decedent's children will also be considered as bloodline. If there are minor children involved, someone may have to be appointed as Guardian for them, depending on the asset to be inherited.
 - **IF NO SPOUSE OR CHILDREN:** List Mother and Father.
 - **IF BOTH PARENTS HAVE PRE-DECEASED:** List the Decedent's siblings, including half-siblings or adopted siblings. Again, if any siblings are pre-deceased, then you must show each deceased sibling's child/children.
 - **IF NO SIBLINGS:** List the mother's siblings, leading to living heirs. List the father's siblings, leading to living heirs.

PLEASE PROVIDE NAMES, ADDRESSES, AND RELATIONSHIPS FOR ALL BENEFICIARIES IN THE WILL OR HEIRS IF NO WILL. If there are children who are under 18, please list the guardian and child's name. You may use additional paper as needed.

Name of Beneficiary / Heir: If under 18 please provide name of child and guardian.	Mailing Address:	Relationship To Decedent:	If <u>DECEASED</u>, provide date of death

I have fully read, understood, and completed this form to the best of my knowledge.

Signature: _____ Date: _____