

**FORM MUST BE SUBMITTED PRIOR TO SCHEDULING APPOINTMENT**

## PROBATE WITHOUT WILL

### Decedent & Fiduciary Info:

County of Death: \_\_\_\_\_

*If not Marshall County, you must provide a Certificate of Death*

Date of Death: \_\_\_\_\_

Name of Estate: \_\_\_\_\_

Decedent's Social Security Number: \_\_\_\_\_

*Certificate of Death Required*

Decedent's Place of Residence at Time of Death: \_\_\_\_\_

Fiduciary (person to be appointed): \_\_\_\_\_

*Bring your Driver's License or State ID*

Fiduciary's Address: \_\_\_\_\_

Fiduciary's Phone: \_\_\_\_\_

Relationship to Decedent: \_\_\_\_\_

### Appointment of personal representative to serve as Fiduciary of the estate.

- The Fiduciary is called an Administrator/Administratrix if there is no Will for the decedent.
- The appointment of the Fiduciary will normally be made 30 days after the date of death. Please call and make an appointment with the Probate Clerk.

Consent – ***within the first 30 days from the date of death***, the fiduciary will need to consent from the heirs, either by personal appearance or in writing acknowledged before a Notary Public such as a Declination to Serve (only within the first 30 days).

***On the 31st day after the date of death, anyone (including creditors) can be appointed over the estate.***

**Decedent's Personal Property:**

**Approximate Value of All Personal Property Held Solely in Decedent's Name:**

**Asset**

**Value**

## Bond and Surety:

**Bond & Surety** is a third party guarantee the Fiduciary will fulfill their obligations.

- The amount of the bond **MUST** cover all assets values in the decedent's name solely, **excluding real estate**.
- State law requires an appointed Fiduciary must be bonded if there is no Will or you are not named as Executor/Executrix in the Will.
- No surety is required on the bond of the Fiduciary if they are the sole Heir of the decedent.

There are 2 types of Surety:

1. **Corporate Surety Bond** is when an insurance company or bond person covers the amount of the probate assets, excluding real estate. You should contact the bond person or agent prior to the appointment as they must also be present at the time of the appointment. If the person to be appointed is an **out-of-state resident**, the bond amount must be **doubled**.

**NOTE: THERE IS A COST FOR CORPORATE SURETY AS IT IS THROUGH A BONDSMAN AND/OR AN INSURANCE AGENT**

2. **Justification of Surety Bond** is using real estate to cover the amount of the bond. This too is a third party. A Fiduciary **CANNOT** use their own property.
  - This person must be present at the time of the appointment.
  - They must own real estate in West Virginia.
  - If the person/surety does not own real estate in Marshall County, they must provide a **Justification of Surety** from the West Virginia County where the real estate is located. This may be obtained from the County Clerk of the county where the property is located.

## Listing of Heirs:

**Names, relationship, and complete current mailing addresses for ALL heirs** (required by WV State Law). The Fiduciary must provide this information **before** the appointment date.

Bloodline heirs goes 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, then list them first and then the spouse.

**Children** – Includes any children born prior to the current marriage. If there is a pre-deceased child, you must show that child’s children with their complete current address. If there are legally adopted children by the decedent or adopted by the decedent’s children, they too must be considered in the bloodline.

**If no Spouse or Children** – List Mother and Father

**If both Parents are Pre-Deceased** – List the decedent’s siblings, including half-siblings or adopted siblings. If any siblings are pre-deceased, you must list each child of that sibling.

**No Siblings** – List the mothers’ siblings, leading to living heirs, then list the father’s siblings leading to living heirs.

The bloodline must ALWAYS lead to living heirs.

**Heir 1 Name:** \_\_\_\_\_

**Heir 1 Address:** \_\_\_\_\_

**Heir 1 Phone:** \_\_\_\_\_ **Relationship:** \_\_\_\_\_

**Heir 2 Name:** \_\_\_\_\_

**Heir 2 Address:** \_\_\_\_\_

**Heir 2 Phone:** \_\_\_\_\_ **Relationship:** \_\_\_\_\_

**Heir 3 Name:** \_\_\_\_\_

**Heir 3 Address:** \_\_\_\_\_

**Heir 3 Phone:** \_\_\_\_\_ **Relationship:** \_\_\_\_\_

If there are more heirs, please list this information in the body of the email when submitting this form.

## Oil & Gas Property:

Yes No

**Is there real estate or oil & gas property?**

**If Yes, List Each Property's Legal Description as Found on Tax Ticket:**

## Fees:

A \$300.00 deposit is required at the time of ALL appointments to cover costs of a Fiduciary Commissioner if referred during the probate. The deposit will be refunded AFTER the settlement is approved if there is no referral. **THIS DEPOSIT IS SEPARATE AND MUST BE CASH, CHECK OR MONEY ORDER.**

The appointment fee is \$37.00 plus the cost of postage to each heir not present at the time of the appointment.

### **FORM MUST BE COMPLETE PRIOR TO SCHEDULING APPOINTMENT**

After completing this form, download it using the decedent's last name, followed by a dash, and then the decedent's first name as the file name. Example: Smith\_John.pdf. Email the completed form to [probateforms@marshallcountywv.gov](mailto:probateforms@marshallcountywv.gov).

To schedule an appointment, call 304-845-1220.