

**MARSHALL COUNTY, WEST VIRGINIA**

PO BOX 459, MOUNDSVILLE WV 26041  
PHONE: 304 845 1220 FAX: 304 845 5891

**CONNIE HOWARD**  
MARSHALL COUNTY CLERK  
[www.marshallcountywv.gov](http://www.marshallcountywv.gov)  
[estates@marshallcountywv.gov](mailto:estates@marshallcountywv.gov)

**FORM MUST BE RETURNED PRIOR TO SCHEDULING AN APPOINTMENT**

**COUNTY OF DEATH:** \_\_\_\_\_

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

**DATE OF DEATH:** \_\_\_\_\_

**PROBATE WITHOUT WILL**

Please complete this form and return it along with the required documents and photo ID. Thank you.

**NAME OF ESTATE:** \_\_\_\_\_ (decendent)

**DEATH CERTIFICATE REQUIRED** - Social Security Number \_\_\_\_\_

Item 7B decendent's place of residence at the time of death **MARSHALL COUNTY**

**FIDUCIARY (person to be appointed):**

Bring or attach your Driver's License or State ID

**ADDRESS:** \_\_\_\_\_

**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 decendent.

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

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**APPROX. VALUE OF ALL PERSONAL PROPERTY HELD SOLELY IN THE DECEDENT'S NAME  
(EXCLUDING REAL ESTATE)**

Value

**Total Value of probate assets determines the bond amount (excluding real estate)**

**TOTAL** \_\_\_\_\_

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## BOND & 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 beneficiary 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.

## BOND & SURETY REQUIREMENTS

APPOINTED AS \_\_\_\_\_

\_\_\_ BOND REQUIRED      BOND AMOUNT \_\_\_\_\_

\_\_\_ SURETY REQUIRED      \_\_\_ NO SURETY REQUIRED/WAIVED      \_\_\_ SOLE HEIR

SURETY NAME & ADDRESS (UNDERWRITER) \_\_\_\_\_

\_\_\_\_\_



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***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.

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

**HEIRS:**

<u>Name</u>	<u>Relationship</u>	<u>Address</u>
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[illegible]

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### 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 usually under \$50.00 plus the cost of postage to each heir not present at the time of the appointment.

**FORM MUST BE COMPLETED 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 [estates@marshallcountywv.gov](mailto:estates@marshallcountywv.gov)

**Call to schedule your appointment.**

Thank you