

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
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: _____ (decedent)

DEATH CERTIFICATE REQUIRED - Social Security Number _____

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

FIDUCIARY (person to be appointed): _____ RELATIONSHIP TO DECEDENT: _____

Bring or attach your Driver's License or State ID

ADDRESS: _____ PHONE: _____

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.

ESTATE ATTORNEY (IF ONE WAS RETAINED) NAME ADDRESS PHONE _____

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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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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

Call to schedule your appointment.

Thank you