

# **FULL PROBATE OVERVIEW and TIMELINE WV CODE § 44**

## **Oath of Fiduciary (Executor/Administrator/Personal Representative):**

An Oath is signed that attests that the information provided to the Clerk is true and correct to the best of your knowledge. Letters of Administration are given at the time of the appointment, or through the mail if received remotely, that prove authority to handle the affairs of the estate. The filing fees for the Oath and Notice of Administration are collected at the same time, and are a total of \$32.

## **Appraisal of the Estate & Non-Probate Inventory of the Estate WV Code § 44-1-14:**

The Appraisal of the Estate is to be completed and submitted to the Clerk's office within ninety (90) days from the date of appointment. Provided that there are no additional pages added to the form, the recording fee will be \$12.00.

## **Estates Requiring a Fiduciary Commissioner:**

If the estate has more than one beneficiary and the probate assets (from page 1, Part 3, line 7 of the Appraisal of the Estate 6.01 form) are over \$200,000, a fiduciary commissioner may be assigned to the estate in accordance with West Virginia Code §44-2-1. Additional fees will be required.

## **Notice of Administration/Notice to Creditors:**

After the County Clerk records the Appraisal, or after 120 days if the appraisal has not been received, Notice of Administration will be published in the local newspaper. This notice gives creditors sixty (60) days to file a claim against the estate. If a claim is received, a copy will be promptly forwarded to the personal representative.

## **Closing the Estate: Types of Forms to File to Close an Estate**

- The Waiver of Final Settlement: Requires the notarized signature of all beneficiaries/heirs **unless** the beneficiary/heir only receives a specific bequest of tangible personal property or a specific bequest of cash, The filing fee is \$17 for up to 5 pages. OR
- The Report of Receipts, Disbursements and Distribution Affidavit: Requires only the notarized signature of the Personal Representative. It is an accounting of all assets that came into the estate, were paid out of the estate, and a proposed distribution of the remaining assets. If the probate estate is open for more than one year, annual accountings are required. The filing fee is \$17 for up to 5 pages.
- **Probate takes at the minimum four months, but can take much longer due to many factors.**

**Be advised that according to Advisory Opinion 93-00, the Committee on Unlawful Practice of the West**

Virginia State Bar cautions that a county employee would not be allowed to advise the individual preparing the pre-printed appraisement and inventory forms about the application of legal principles to facts, purposes or desires.

**In other words, we have to be careful that we are not “practicing law”. If you have retained an attorney or certified public accountant, your questions can best be answered through them. If you find we are unable to help you with certain matters, you should to confer with a professional to be assured your duties as personal representative are carried out according to state law.**