

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 249

BY SENATOR WELD

[Introduced January 10, 2019; Referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §44-1-6a, relating to the administration of estates and trusts; creating a limited
 3 letter of administration that may be issued for estates that do not exceed the value of
 4 \$2,000; and establishing procedures and responsibilities relating to a limited letter of
 5 administration.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. PERSONAL REPRESENTATIVES.

§44-1-6a. Limited letter of administration.

1 (a) Forty days after the death of a decedent, if a relative of a decedent appears in court or
 2 before the clerk of the county commission with a death certificate of the decedent and certifies in
 3 writing his or her relationship to the decedent and that the decedent was a resident of the county,
 4 did not own or have an interest in real property and died with personal property (whether one or
 5 more items of personal property) having a total date of death fair market value not exceeding
 6 \$2,000, the court or clerk may issue a limited letter of administration, authorizing the applicant the
 7 authority to negotiate, cash, or sell the personal property items having a total fair market value
 8 not exceeding \$2,000. The court or clerk may issuance only one limited letter of administration
 9 for a decedent. The clerk shall record the limited letter of administration in the Appraisement
 10 Book records.

11 (b) The clerk shall obtain from the applicant, the name and addresses of the heirs-at-law,
 12 the specific personal property to be described in the limited letter of administration, and how the
 13 applicant will disburse the assets to either creditors and/or to the heirs-at-law. Thereafter, the
 14 clerk shall send a copy of the application for limited letter of administration to each of the heirs-
 15 at-law. If the clerk does not receive an objection within 14 days of the mailing, the clerk shall
 16 issue a limited letter of administration to the applicant. If an objection is filed, the application shall
 17 be denied: *Provided*, That if all parties later agree, a new application again may be reissued and
 18 sent for approval to all heirs-at-law.

- 19 (c) The limited letter of administration shall:
- 20 (1) Describe each personal property item in detail.
- 21 (A) For a bank check, the name of the issuer, the name of the financial institution, the date
22 of the check, and the amount of the check.
- 23 (B) For a motor vehicle, the year, model and make of the vehicle, its vehicle identification
24 number, the state the vehicle is registered, and the date of death fair market value.
- 25 (C) For corporate stock, bond or savings bond, the name of the corporation, bond, or
26 savings bond, the issuance number, the number of shares, and the date of death fair market
27 value; and
- 28 (2) State that the authority to negotiate the asset is granted to those personal property
29 items only, and that the applicant has no authority to conduct any other business in the name of
30 the decedent nor his or her estate.
- 31 (c) It is not necessary for an applicant to be appointed as a personal representative of the
32 decedent's estate, to be bonded, or to file an appraisal or final accounting with the court or
33 with the clerk, nor is a publication notice to creditors or any other notices to heirs-at-law required.
- 34 (d) Failure of the applicant to carry out the distribution, as stated in the application, is
35 grounds for a cause of action by the party or parties affected that may be brought in the Magistrate
36 Court of the county where the application was presented.
- 37 (e) The court or clerk shall charge a fee of \$50 for each application regardless of whether
38 the clerk issues a limited letter of administration, and the clerk may charge the customary charge
39 for the issuance of each additional certified copy requested by the applicant.
- 40 (f) If additional probate assets of the decedent are located, including any interest in real
41 property, the applicant shall personally reimburse the decedent's estate, unless the applicant can
42 prove he or she used the funds to pay the funeral expenses of the decedent, or distributed the
43 funds to the beneficiaries of the decedent's Last Will and Testament or to the heirs-at-law of the
44 decedent.

NOTE: The purpose of this bill is to create a limited letter of administration that may be issued for estates that do not exceed the value of \$2,000.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.