

Estates and Probate

What Is Probate?

The Process by which a Last Will and Testament is legally authenticated after the Testator's death; to establish the validity of a will; or, if there is no will, the process to establish heirs to an estate.

Probate Terminology

Testate - One who dies leaving a valid will.

Intestate – One who dies without a will.

Bond - Promissory note issued by a corporation, insurance company, or government office to Serve as surety when required by the Probate Court.

Surety – A person who has made themselves responsible for another's obligation.

Executor – One designated in a will to administer the estate of the testator.

Administrator - One given the authority by the court to settle the estate of the decedent.

Probate Assets - A decedent's assets that are strictly in his or her name alone.

Non-Probate Assets – A decedent's assets that are jointly held with another person or assets Naming someone else as a beneficiary.

Beneficiary – One who has been named in a will to receive from a decedent's estate.

Heir – One who inherits property from a decedent's estate through intestacy. (WV State Law)

Appraisement Form – A listing of the decedent's probate and non probate assets including the Fair market value of those assets.

Beginning Probate Checklist

1. A state issued death certificate or certified copy from another county or state.
2. If the decedent left a will, bring the ORIGINAL will, no copies can be admitted to probate.
3. You must provide the complete name and current address of all beneficiaries named in the will and their relationship to the decedent. If there is no will, we must have the complete name and address of each heir according to West Virginia Intestate Succession Law.
4. If the decedent dies without a will or if the proposed personal representative is not named as an executor in the will, Bond will be required in order to appoint a personal representative. There are two options for "surety" or "bond":
 - a. If you are a WV resident bring another person who owns or has sufficient equity in real estate located in Summers County. If the "Surety" owns real estate in another county, they need to provide a Justification of Surety from the County Clerk in their county of residence.

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- b. Corporate bond may be obtained by contacting an insurance agency licensed by the State of WV.**
- 5. Know the approximate value of the probate estate. This includes personal property owned solely by the decedent, real estate titled in the name of the decedent, and cash , bank accounts, cd's , stocks, bonds, etc. owned by the decedent.**
- 6. Cost of Administration can range from \$79.00 - \$240.00+ depending on whether there is a will, and the gross value of the estate.**