

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 205

BY SENATOR WELD

[Introduced January 9, 2020; 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; establishing procedures and responsibilities relating to a limited letter of
5 administration; providing for a cause of action for parties affected by an applicant's failure
6 to carry out distribution as stated in the application; and providing for a \$50 fee for each
7 application regardless of whether the clerk issues a limited letter of administration.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. PERSONAL REPRESENTATIVES.

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

1 (a) The court or clerk of the county commission may issue a limited letter of administration
2 if, 40 days after the date of death of a decedent, a relative of the decedent appears in court or
3 before the clerk of the county commission with the decedent's death certificate and certifies in
4 writing:

5 (1) His or her relationship to the decedent;

6 (2) The county of the decedent's residence at the time of his or her death;

7 (3) That the decedent did not own or have an interest in real property; and

8 (4) The decedent died with one or more items of personal property not exceeding a total
9 fair market value on the date of the decedent's death of \$2,000.

10 (b) A limited letter of administration grants the applicant the authority to negotiate, cash,
11 or sell the personal property items having a total fair market value on the date of the decedent's
12 death not exceeding \$2,000. The court or clerk of the county commission may issue only one
13 limited letter of administration per decedent. The clerk shall record the limited letter of
14 administration in the appraisement book records.

15 (c) The clerk shall obtain from the applicant the names and addresses of the heirs-at-law,
16 the specific personal property to be described in the limited letter of administration, and how the

17 applicant will disburse the assets to either creditors and/or heirs-at-law. Thereafter, the clerk shall
18 send a copy of the application for a limited letter of administration to each of the heirs-at-law. If
19 the clerk does not receive an objection within 14 days of mailing the application, the clerk shall
20 issue a limited letter of administration to the applicant. If an objection is filed, the application shall
21 be denied: *Provided*, That if all parties later agree, a new application may be reissued and sent
22 for approval to all heirs-at-law.

23 (d) The limited letter of administration shall:

24 (1) Describe each personal property item in detail including:

25 (A) Description for a bank check shall include the name of the issuer, the name of the
26 financial institution, the date of the check, and the amount of the check;

27 (B) Description for a motor vehicle shall include the year, model, and make of the vehicle,
28 its vehicle identification number, the state the vehicle is registered in, and the fair market value of
29 the vehicle on the date of the decedent's death;

30 (C) Description for corporate stock, bonds, or savings bonds shall include the name of the
31 corporation, bonds or savings bonds, the issuance number, the number of shares, and the fair
32 market value on the date of the decedent's death; and

33 (2) State that the authority to negotiate the asset is granted to those personal property
34 items only, and that the applicant has no authority to conduct any other business in the name of
35 the decedent nor his or her estate.

36 (e) It is not necessary for an applicant to be appointed as a personal representative of the
37 decedent's estate, to be bonded, or to file an appraisal or final accounting with the court or
38 with the clerk, nor is a publication notice to creditors or any other notices to heirs-at-law required.

39 (f) Failure of the applicant to carry out the distribution, as stated in the application, is
40 grounds for a cause of action by the party or parties affected that may be brought in the magistrate
41 court of the county where the application was presented.

42 (g) The court or clerk shall charge a fee of \$50 for each application regardless of whether

43 the clerk issues a limited letter of administration. The issuance of each additional certified copy
44 requested by the applicant is subject to an additional \$50 fee.

45 (h) If additional probate assets of the decedent are located, including any interest in real
46 property, the applicant shall personally reimburse the decedent's estate, unless the applicant can
47 prove that he or she used the funds to pay the funeral expenses of the decedent, or distributed
48 the funds to the beneficiaries of the decedent's last will and testament or to the decedent's heirs-
49 at-law.

NOTE: The purpose of this bill is for allowing issuance of limited letters of administration for very small estates which do not include real estate.

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