

HB 101 S

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST EXTRA ORDINARY SESSION, 2007



**ENROLLED**

**House Bill 101**

(By Delegates Staggers, Webster, White, Shook, Fleischauer, Moyer,  
M. Poling, C. Miller, Perdue, Wysong and Paxton)



Passed March 18, 2007.

In Effect Ninety Days from Passage

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# H. B. 101

(BY DELEGATES STAGGERS, WEBSTER, WHITE, SHOOK,  
FLEISCHAUER, MOYE, M. POLING, C. MILLER, PERDUE,  
WYSONG AND PAXTON)

[Passed March 18, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §44-1-14a of the Code of West Virginia, 1931, as amended, relating to administration of estates by fiduciary commissioners; requiring commissioner to conclude administration of certain estates upon request by interested party; limiting notice required to creditors and payment of related fees by personal representatives; setting expiration of time period for unpaid creditors to file claims against estate; and requiring commissioner to conduct hearing on claim filed by unpaid creditor.

*Be it enacted by the Legislature of West Virginia:*

That §44-1-14a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

## **ARTICLE 1. PERSONAL REPRESENTATIVES.**

### **§44-1-14a. Notice of administration of estate; time limits for filing of objections; liability of personal representative.**

- 1 (a) Within thirty days of the filing of the appraisal of
- 2 any estate as required in section fourteen of this article, the

3 clerk of the county commission shall publish, once a week  
4 for two successive weeks, in a newspaper of general  
5 circulation within the county of the administration of the  
6 estate, a notice, which is to include:

7 (1) The name of the decedent;

8 (2) The name and address of the county commission  
9 before whom the proceedings are pending;

10 (3) The name and address of the personal representative;

11 (4) The name and address of any attorney representing  
12 the personal representative;

13 (5) The name and address of the fiduciary commissioner,  
14 if any;

15 (6) The date of first publication;

16 (7) A statement that claims against the estate must be  
17 filed in accordance with the provisions of article two or  
18 article three-a of this chapter;

19 (8) A statement that any person seeking to impeach or  
20 establish a will must make a complaint in accordance with  
21 the provisions of section eleven, twelve or thirteen, article  
22 five, chapter forty-one of this code;

23 (9) A statement that an interested person objecting to the  
24 qualifications of the personal representative or the venue or  
25 jurisdiction of the court must be filed with the county  
26 commission within three months after the date of first  
27 publication or thirty days of service of the notice, whichever  
28 is later; and

29 (10) If the appraisal of the assets of the estate shows  
30 the value to be one hundred thousand dollars or less,  
31 exclusive of real estate specifically devised and nonprobate  
32 assets, or, if it appears to the clerk that there is only one  
33 beneficiary of the probate estate and that the beneficiary is

34 competent at law, a statement substantially as follows:  
35 “Settlement of the estate of the following named decedents  
36 will proceed without reference to a fiduciary commissioner  
37 unless within ninety days from the first publication of this  
38 notice a reference is requested by a party in interest or an  
39 unpaid creditor files a claim and good cause is shown to  
40 support reference to a fiduciary commissioner.” If a party in  
41 interest requests the fiduciary commissioner to conclude the  
42 administration of the estate or an unpaid creditor files a  
43 claim, no further notice to creditors shall be published in the  
44 newspaper, and the personal representative shall be required  
45 to pay no further fees, except to the fiduciary commissioner  
46 for conducting any hearings, or performing any other duty as  
47 a fiduciary commissioner. The time period for filing claims  
48 against the estate shall expire upon the time period set out in  
49 the notice to creditors published by the clerk of the county  
50 commission as required in this subsection (a). In the event  
51 that an unpaid creditor files a claim, the fiduciary  
52 commissioner shall conduct a hearing on the claim filed by  
53 the creditor, otherwise, the fiduciary commissioner shall  
54 conclude the administration of the estate as requested by the  
55 interested party.

56 (b) If no appraisal is filed within the time period  
57 established pursuant to section fourteen of this article, the  
58 county clerk shall send a notice to the personal representative  
59 by first class mail, postage prepaid, indicating that the  
60 appraisal has not been filed. Notwithstanding any other  
61 provision of this code to the contrary, the county clerk shall  
62 publish the notice required in subsection (a) of this section  
63 within six months of the qualification of the personal  
64 representative.

65 (c) The personal representative shall promptly make a  
66 diligent search to determine the names and addresses of  
67 creditors of the decedent who are reasonably ascertainable.

68 (d) The personal representative shall, within ninety days  
69 after the date of first publication, serve a copy of the notice,  
70 published pursuant to subsection (a) of this section, by first

71 class mail, postage prepaid, or by personal service on the  
72 following persons:

73 (1) If the personal representative is not the decedent's  
74 surviving spouse and not the sole beneficiary or sole heir, the  
75 decedent's surviving spouse, if any;

76 (2) If there is a will and the personal representative is not  
77 the sole beneficiary, any beneficiaries;

78 (3) If there is not a will and the personal representative is  
79 not the sole heir, any heirs;

80 (4) The trustee of any trust in which the decedent was a  
81 grantor, if any; and

82 (5) All creditors identified under subsection (c) of this  
83 section, other than a creditor who filed a claim as provided in  
84 article two of this chapter or a creditor whose claim has been  
85 paid in full.

86 (e) Any person interested in the estate who objects to the  
87 qualifications of the personal representative or the venue or  
88 jurisdiction of the court, shall file notice of an objection with  
89 the county commission within ninety days after the date of  
90 the first publication as required in subsection (a) of this  
91 section or within thirty days after service of the notice as  
92 required by subsection (d) of this section, whichever is later.  
93 If an objection is not timely filed, the objection is forever  
94 barred.

95 (f) A personal representative acting in good faith is not  
96 personally liable for serving notice under this section,  
97 notwithstanding a determination that notice was not required  
98 by this section. A personal representative acting in good  
99 faith who fails to serve the notice required by this section is  
100 not personally liable. The service of the notice in accordance  
101 with this subsection may not be construed to admit the  
102 validity or enforceability of a claim.

103       (g) The clerk of the county commission shall collect a fee  
104 of twenty dollars for the publication of the notice required in  
105 this section.

106       (h) For purposes of this section, the term beneficiary  
107 means a person designated in a will to receive real or  
108 personal property.

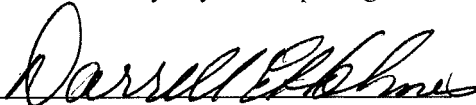
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

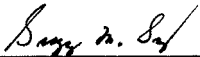
  
\_\_\_\_\_  
Chairman Senate Committee

  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

  
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Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within we approved this the 4<sup>th</sup>  
day of April 2007.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 21 2007

Time

4:10 pm