

## A NOTE TO NEW EXECUTORS AND ADMINISTRATORS of estates valued at \$25,000 or less

As the executor or administrator of a decedent's estate in Virginia, you are charged with significant responsibilities under the law. Foremost among them is that you, to the best of your ability, must act faithfully and honestly, with reasonable competence, to carry out your duties. You are a fiduciary, which means that assets belonging to others have been entrusted to you. As such, you have obligations to the court, to the beneficiaries and heirs of the estate, to potential creditors, to any person or entity that may have posted a surety bond for you, and to the public, as well. Listed below are some practice pointers for you as you begin your work.

- ❑ You are responsible to secure all the assets of the estate and preserve them from waste.
- ❑ Never mix or co-mingle your money with monies of the estate.
- ❑ Never use estate money to pay any expenses for yourself or for anybody else.
- ❑ Keep very detailed records of all money in and all money out of the estate.
- ❑ As this estate has a reported value of \$25,000.00 or less, the Clerk has exercised discretion to waive your responsibility to file an inventory and accountings with the Commissioner of Accounts. Nonetheless, if you later determine that the personal property of the probate estate exceeds \$25,000, you should promptly report that fact to the Clerk.
- ❑ Even though your duty to file accountings has been waived, you should still keep a paper trail, saving every invoice, bill, receipt, and [almost] every piece of paper! There is always the possibility that the Clerk or Court may later require you to account for all your actions as Executor or Administrator, proving all income and expenditures.
- ❑ Taxes. You are responsible for filing any income, inheritance, or estate tax returns that may be required by state or federal law. Consult with a tax professional to see whether the law requires a return to be filed in your situation. You may also find assistance from the Virginia Department of Taxation ([www.tax.virginia.gov](http://www.tax.virginia.gov) or (804) 367-8031) or from the Internal Revenue Service ([www.irs.gov](http://www.irs.gov) or (800) 829-4933).
- ❑ If there are not enough assets in the estate to pay all of the estate obligations, be aware that Virginia law sets forth the order in which creditors are to be paid and the amounts that should be paid to them. See Section 64.2-528 of the Code of Virginia.
- ❑ When you make a distribution to an heir or beneficiary, get a signed receipt from them.
- ❑ Promptly consult with a lawyer or accountant if you are unfamiliar with your duties.
- ❑ If you fail to perform your duties and the estate or others suffer loss as a result, you will be responsible for repayment.

  
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