

SMALL ESTATES

If you want to open an estate that has assets of not more than \$10,000.00, you may be able to use a simpler procedure than the others discussed in this manual. It is called the small estate procedure and may save time and money in processing the estate.

The primary aim of the small estate procedure is to allow the fiduciary to close the estate more quickly than would happen if the ordinary procedure is used. The small estate procedure involves less supervision by the court. The estate has to meet certain criteria, and it remains in the court's discretion whether you will be allowed to use the small estate procedure. *14 VSA §1902.*

To qualify, (1) beneficiaries are limited to a surviving spouse, children of any age, or both; (2) the decedent's estate must consist only of personal estate (no real estate requiring probate to pass title); and the personal estate, appraised at its true cash value, must not exceed \$10,000.00 in value. *14 VSA §1902.*

To initiate the procedure, you must file: (1) a small estate petition (*Form 7A*), (2) a regular estate inventory (*Form 30*) with the true cash value of assets sworn to by one or more competent appraisers or a disinterested person appointed by the court, (3) a small estate principal bond (*Form 20B*) conditioned on payment of funeral expenses within one year of death, in a \$300.00 principal amount unless the court sets a higher bond, (4) the will, if any, (5) the death certificate, and (6) the entry fee. *VRPP Rule 80.3(a).*

The probate judge will review the documents, and may grant administration without further notice or hearings, or may impose additional requirements. However, if there is a will, you will be required to send a copy of the will by 1st-class mail to all interested persons with notice of their right to object, and you may be required to give notice by publication if all interested persons cannot be located. If all interested persons consent to the will, no such further notice or hearing will be required. *VRPP Rule 80.3(b-c).*

The fiduciary may, but is not required to, give notice to creditors to present claims. However, even though you are not obligated to give notice to creditors, you *are* obligated to pay all known debts of the decedent from the assets of the estate. If a creditor is not paid before you distribute the assets, then the creditor can later establish a claim and recover from the beneficiaries of the estate. If you publish notice to creditors, they have only four months after the first publication to establish their claim. If you do not publish notice, they have up to three years after the decedent's death. *14 VSA §1903(c); VRPP Rule 80.3 (Reporter's Notes).*

Once the court has granted administration to you and you have been appointed the fiduciary for the estate, you are obligated to: (1) pay from the assets of the estate all funeral and burial expenses and known debts of the decedent, and provide receipts for payment to the court, (2) distribute the balance of assets to the beneficiaries, in accordance with the law or with an allowed will as directed by the court, and (3) file a statement with the court under oath showing how distribution was made. Once the court has accepted this report, the court will discharge you as fiduciary of the estate. You will not be required to obtain a tax clearance from the Vermont Department of Taxes unless the court directs you to do so. *VRPP Rule 80.3(g).*