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 	Bio	
	<ul style="list-style-type: none"> • Clerk & Master for Williamson County • 8 years at the Public Defender's Office • 2 years solo practitioner • Married with 3 kids • UT and NSL graduate 	

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<p>WHAT IS A SMALL ESTATE?</p> <p><u>Tenn. Code Ann. § 30-4-102(9)</u></p>	<ul style="list-style-type: none"> • A “Small estate” means the probate estate of a decedent in which the value of the probate property does not exceed fifty thousand dollars (\$50,000). • The Small Estate statute does not cover real property! This statute only gives the Personal Representative authority to take receipt of and distribute personal property that is specifically listed in the Petition. 	
		

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<p>WHAT IS "PROPERTY" UNDER THE STATUTE</p>		
<ul style="list-style-type: none"> • "Property" means only personal property [not real property], or any interest in personal property, owned by the decedent on the date of death that would be subject to probate." <u>Tenn. Code Ann. § 30-4-102(8)</u>. • Personal property held as tenants by the entirety or jointly with right of survivorship, or personal property payable to a beneficiary other than the decedent's estate <u>does not</u> come under the control of the Personal Representative. 		

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<p>Tenn. Code Ann. § 30-4-102(4-5)</p>	
<ul style="list-style-type: none"> • "Limited letters of administration of a small estate" means limited letters of administration for the decedent's property that restrict the person to whom the limited letters of administration are issued to the property itemized and identified in the petition for the limited letters, which must be attached to and made a part of the limited letters. • "Limited letters testamentary of a small estate" means limited letters testamentary for the decedent's property that restrict the person to whom the limited letters testamentary are issued to the property itemized and identified in the petition for the limited letters which must be attached to and made a part of the limited letters. 	

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<p>WHEN MAY A SMALL ESTATE BE ADMINISTERED?</p>	
<ul style="list-style-type: none"> • 45 days <u>subsequent</u> to the decedent's death. The 45-day waiting period may be waived for "good cause shown." <u>Tenn. Code Ann. § 30-4-103(8)</u>. • The date of death must be verified by the decedent's death certificate. • And then, only if there has been "no petition for the appointment of a personal representative of the decedent's estate has been filed in that period of time for the decedent's estate." • <u>Tenn. Code Ann. § 30-4-103(1)</u>. 	

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What is “Good Cause”?

- Substantial reason, one that affords a legal excuse. Legally sufficient ground or reason. Black's Law Dictionary, 5th Ed.
- The phrase “good cause” depends upon circumstances of individual case, and finding of its existence lies largely in discretion of officer or court to which decision is committed. *Wilson v. Morris, Mo.*, 369 S.W.2d 402
- Examples: Property likely to be diminished or lost, Convenience, Others?

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WHO MAY PETITION THE COURT

- Must be “One (1) or more of the decedent’s competent adult heirs.” *Tenn. Code Ann. § 30-4-103(1)(A)*.
- An heir is defined in *Tenn. Code Ann. § 31-1-101* as follows: “Heirs” means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.”
- The Personal Representative named in the decedent’s Will. *Tenn. Code Ann. § 30-4-103(1)(A)*.
- Note: Unlike a traditional probate, creditors are not able to file a petition or a claim under the Small Estate Probate Act.



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PETITION CONTENTS FOR LIMITED LETTERS OF ADMINISTRATION

- The “sworn petition with the court containing the information set forth in § 30-1-117(a)(1)-(10). (There is actually 11 items to be considered in *Tenn. Code Ann. § 30-1-117(a)*, see next slide).
- The petition must include an itemized list of the property of the decedent to which the limited letters are to apply, the value of each item of property.
- The identity of each creditor of the decedent, and the amount owing to each identified creditor.

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Tenn. Code Ann. § 30-1-117

- (a) To apply the terms of a will or testament or letters testamentary, to distribute the assets of a decedent, a willful petition containing the following information and documents shall be filed with the court:
 - (1) The identity of the petitioner;
 - (2) The decedent's name, age, address, date and cause of death, and residence at death;
 - (3) The date of testacy, the name, age, address, residing address and citizenship of each heir at death of the decedent;
 - (4) A copy of the will or testament or letters testamentary, or a copy of the petition or a copy of the petition and a copy of the will or testament or letters testamentary;
 - (5) The decedent's last known whereabouts, but, if unknown, so to establish the petition;
 - (6) The names and residences of all persons and heirs and the city or counties of each person, under oath stating the facts and information which are pertinent to the decedent's property under the will or testament, and the identity of any other persons entitled;
 - (7) An affidavit of the true and correct value of the assets of the decedent as a personal representative of the decedent or of the estate or to be appointed as a personal representative;
 - (8) A copy of the decedent's last known whereabouts, but, if unknown, so to establish the petition;
 - (9) A copy of the decedent's last known whereabouts, but, if unknown, so to establish the petition;
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Tenn. Code Ann. § 30-1-117

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IS A BOND REQUIRED Tenn. Code Ann. § 30-4-103(3)(A-C)

- Regardless of the language of the decedent's will waiving bond, the petitioner for the limited letters shall make the bond payable to the clerk of the court for the benefit of those entitled with a corporate surety.
- The amount of the bond must be equal to the value of the decedent's property to be administered under this chapter.
- Bond may be waived if:
 - The petitioner or petitioners are the sole heirs of the intestate decedent;
 - The petitioner or petitioners are the sole beneficiaries of the testate decedent; or
 - All the adult heirs and beneficiaries' consent in writing.



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WHEN CAN THE BOND BE RELEASED

- The court may enter an order discharging the personal representative and the surety on the personal representative's bond after the personal representative files, for a decedent dying before January 1, 2016, either the tax receipt issued pursuant to § 67-8-420, or the certificate or assessment issued pursuant to § 67-8-409(f), Tenn. Code Ann. § 30-4-103(7)(A).
- OR
- The personal representative and the surety on the personal representative's bond may wait until the first anniversary of the issuance of the limited letters when the court shall automatically discharge them from liability, Tenn. Code Ann. § 30-4-103(7)(B).

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NOTICE TO CREDITORS

- “A notice to creditors must not be published, and a creditor is not permitted to file a claim in a small estate probate.” Tenn. Code Ann. § 30-4-103(6).



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Muniment of Title to Real or Personal Property
Tenn. Code Ann. § 30-4-103(1)(B)(i)

- The Small Estate Probate Act allows the Personal Representative to file a Petition to Muniment Title to real or personal property pursuant to Tenn. Code Ann. § 32-2-111.



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General Discussion/ Questions	