



Estate Fraud: Spotting and Stopping it For Virginia Farmers and Woodland Owners

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Introduction

Fraud is not something most of us think about touching us individually. It's a "corporate thing." Or is it? Are landowners at any particular risk of fraud?

The Association of Certified Fraud Examiners (ACFE) estimates that fraud touches about 2% of companies and/or transactions globally.

In 2022, Virginia had more than 8.6 million residents. With a death rate of 0.8%, about 70,000 people/year in Virginia pass away. If fraud touches 2% of those estates, it means that 1,400 cases of estate fraud start every year in Virginia. This is an average of five new cases every day.



Image by freepik.

Definition

Fraud = theft or gain by deception; "theft with a smile" typically done by someone the victim knows.

Estate fraud = fraud in probate, trust, estate or guardianship.

Estate Fraud often involves land and investment properties.

Understanding Fraud

Fraud has two core shapes:

- Commission: Claims presented as true, that are false.
- Omission: Facts that are true, but which are concealed.

Estate fraud may include:

- Inventories that are missing assets such as timber contracts, mineral rights, water rights, grazing or other ag deals.
- Under or over-valuing assets.
- Incomplete or missing accountings.
- Forgery: Documents presented as authentic that are fake.
 - Deeds, surveys, contracts, easements, leases, et cetera.
- Bill-churning: Billing for services that don't benefit the estate.

Warning signs of fraud:

- Delayed or concealed accountings.
- Delayed or incomplete billings from professionals.
- Chaos & confusion in the process (fraud thrives in crisis.)

- For example: “We need to sell assets fast to pay bills!”
- Exaggerated & exotic claims by people involved.
- Failure to pay bills & taxes due.

Protecting Against Fraud

It is up to you. See something? Say something! Always make your concerns known, in writing, to everyone. This includes the administrator, judge, attorneys & accountants. If problems persist, ask for an audit. An audit is simply a verification of the accounting/inventory and should not be contentious unless there are questionable actions being taken.

Ideally, fraud is avoided by open communication and good legacy planning of which estate planning is a key, but not the only, component.

What is Legacy Planning?

An Estate Plan is a critical tool to pass assets from one generation to the next in a manner that honors the wishes of the predecessors and reduces the risk of conflict among heirs/beneficiaries.

Successful legacy planning not only includes a solid estate plan with the accompanying legal documents but also an ongoing process of engagement with heirs &/or beneficiaries.

This ongoing process is critical to pass on intrinsic values as well as practical documents that make up a comprehensive Legacy Plan.

Virginia’s Generation NEXT program suggest the following **Essential Documents**:

1. Forest property and estate overview. See Worksheet 1.
 - https://www.pubs.ext.vt.edu/content/dam/pubs_ext_vt_edu/CNRE/cnre-121/CNRE-129A.pdf
2. Heirloom Scale. See worksheet 2.
 - https://www.pubs.ext.vt.edu/content/dam/pubs_ext_vt_edu/CNRE/cnre-121/CNRE-129B.pdf

3. Land management plan.
 4. List of responsible parties. See worksheet 7.
 - https://www.pubs.ext.vt.edu/content/dam/pubs_ext_vt_edu/CNRE/cnre-121/CNRE-129G.pdf
 5. List of pertinent information about your land. This may include deeds, leases, cell tower contracts, Right-of-ways, easements, special permits, mineral rights and tax/land use valuation
 6. Last will and testament
 7. Advance medical directive
 8. Durable power of attorney
- Identification of heirs. See worksheet 4
https://www.pubs.ext.vt.edu/content/dam/pubs_ext_vt_edu/CNRE/cnre-121/CNRE-129D.pdf

Additional Resources



Legacy Planning for Forest Landowners
<https://ext.vt.edu/natural-resources/legacy-planning.html>

Planning the Future of Your Farm: A Workbook Supporting Farm Transfer Decisions.
<https://vtechworks.lib.vt.edu/items/029925e7-a87a-4adc-9103-3f9799526d17>

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