

WEST VIRGINIA CODE: §44D-7-704

§44D-7-704. Vacancy in trusteeship; appointment of successor.

(a) A vacancy in a trusteeship occurs if:

- (1) A person designated as trustee rejects the trusteeship;
- (2) A person designated as trustee cannot be identified or does not exist;
- (3) A trustee resigns;
- (4) A trustee is disqualified or removed;
- (5) A trustee dies; or
- (6) A guardian or conservator is appointed for an individual serving as trustee.

(b) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled, unless otherwise provided in the terms of the trust instrument. A vacancy in a trusteeship must be filled if the trust has no remaining trustee.

(c) Unless otherwise provided in the terms of the trust instrument, a vacancy in a trusteeship of a noncharitable trust that is required to be filled must be filled in the following order of priority:

- (1) By a person designated in the terms of the trust instrument to act as successor trustee;
- (2) By a person appointed by unanimous written agreement of the qualified beneficiaries; or
- (3) By a person appointed by the court having jurisdiction of the trust.

(d) Unless otherwise provided, a vacancy in a trusteeship of a charitable trust that is required to be filled shall be filled in the following order of priority:

- (1) By a person designated in the terms of the trust to act as successor trustee;
- (2) By a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust instrument if the Attorney General of West Virginia either concurs in writing to the selection or fails to make a written objection to the selection within ninety days after receiving by certified or registered mail a notice of the selection by the charitable organizations; or
- (3) By a person appointed by the court having jurisdiction over the trust.

(e) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may

upon petition of the grantor, a qualified beneficiary, or a cotrustee appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.