

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949

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ENROLLED

SENATE BILL No. 198

(By Mr. Van Camp.....)

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PASSED March 12..... 1949

In Effect ..... from ..... Passage



198

**ENROLLED**  
**Senate Bill No. 198**

(By MR. VAN CAMP)

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[Passed March 12, 1949; in effect from passage.]

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AN ACT to amend chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article to be designated article five, relating to powers of appointment, and composed of sections one, two, three, four and five, relating to the release of powers of appointment.

*Be it enacted by the Legislature of West Virginia:*

That chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new article to be designated article five, composed of sections one, two, three, four and five, to read as follows:

Section 1. *Release of General Powers of Appointment.*

2 —Any general power, whether exercisable by will, by

3 deed, by will or deed, or otherwise, to appoint property,  
4 whether real or personal or both, is releasable by the  
5 person or persons having such power, with or without  
6 consideration, wholly or partially. Any such power may  
7 be released with respect to the whole or any part of the  
8 property subject thereto; and any such power may also be  
9 released in such manner as to reduce, limit, or restrict the  
10 persons or objects, or classes of persons or objects, to or  
11 among any one or more of whom, but no others, the prop-  
12 erty subject to such power may be appointed by an ex-  
13 ercise thereof, as fully as the creator of such power himself  
14 could have so reduced, limited or restricted the same and  
15 with like effect as if he had.

Sec. 2. *Method of Effecting Release of Powers of Ap-*  
2 *pointment.*—Any release mentioned in the preceding sec-  
3 tion may be effected by a written instrument signed and  
4 acknowledged as a deed by the person or persons having  
5 the general power to appoint mentioned in that section;  
6 and such instrument may be delivered by filing it for  
7 record in the office of the clerk of the county court of the  
8 county wherein the will, deed or other instrument creat-

9 ing such power is recorded. Such clerk shall record such  
10 instrument of release as a deed is recorded, index it, and  
11 note a reference to the record thereof on the margin of  
12 the record of the will, deed or other instrument creating  
13 such power.

Sec. 3. *Release of Other Than General Powers of Ap-*  
2 *pointment.*—Any other power than a general one, whether  
3 exercisable by will, by deed, by will or deed, or other-  
4 wise, to appoint property, real or personal or both, is re-  
5 leaseable to the extent that a release thereof would not be  
6 contrary to any manifest intent or purpose of the creator  
7 of such power expressly set forth in the will, deed or other  
8 instrument creating such power; and to the extent so re-  
9 leaseable it may be released in like manner as above pro-  
10 vided in this article for the release of a general power of  
11 appointment, and with like effect.

Sec. 4. *Validity of Release of Power of Appointment*  
2 *Thereof Made.*—Any release of a general or other re-  
3 leaseable power of appointment heretofore made in con-  
4 formity with the provisions of the foregoing sections of

5 this article shall be as valid, binding and effective as if  
6 hereafter so made.

Sec. 5. *Other Methods of Release of Power of Appoint-*  
2 *ment Not Affected.*—Nothing in this article contained  
3 shall affect the validity of any release of any power of  
4 appointment heretofore or hereafter lawfully effected in  
5 any other form or manner.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Robert L. Wynn*  
Chairman Senate Committee

*R. Matthews*  
Chairman House Committee

Originated in the Senate.

Takes effect *from* passage.

*Howard Myers*  
Clerk of the Senate

*J. R. Smith*  
Clerk of the House of Delegates

*Robert C. Hunter*  
President of the Senate

*W. A. Conaway*  
Speaker House of Delegates

The within *APPROVED* this the *17<sup>th</sup>*

day of *MARCH*, 1949.

*Chas. L. Patton*

Filed in the Office of the *Governor* Secretary of State  
of West Virginia **MAR 18 1949**  
D. PITT O'BRIEN,  
SECRETARY OF STATE

