WEST VIRGINIA CODE: §31I-1-9

§31I-1-9. Limitation on powers.

(a) In the exercise of any power held by a private trust company or licensed private trust company in its capacity as a fiduciary, the private trust company or licensed private trust company shall have a duty not to exercise any power in such a way as to deprive the estate, trust, or other entity for which it acts as a fiduciary of an otherwise available tax exemption, deduction, or credit for tax purposes, or deprive a donor of trust assets of a tax exemption, deduction, or credit or operate to impose a tax upon a donor or other person as owner of any portion of the estate, trust, or otherwise.

(b) Without limitation to subsection (a) of this section, no family member who is a stockholder or member or who otherwise holds an equity interest in, or is serving as a director, officer, manager, or employee of, a private trust company or licensed private trust company shall participate in or otherwise have a voice in any discretionary decision by the private trust company or licensed private trust company to distribute income or principal of any trust in order to discharge a legal obligation of a family member or for a family member’s pecuniary benefit, unless:

(1) The exercise of the discretion is limited by an ascertainable standard relating to the health, education, support, or maintenance of that family member;

(2) The distribution is necessary for that family member’s support, health, or education; or

(3) The instrument governing the administration of that trust clearly so provides.

WV Legislature