WEST VIRGINIA CODE: §31d-8-810

§31D-8-810. Vacancy on board.

(a) Unless the articles of incorporation provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

(1) The shareholders may fill the vacancy;

(2) The board of directors may fill the vacancy; or

(3) If the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(b) If the vacant office was held by a director elected by a voting group of shareholders and if the vacancy is to be filled by the shareholders as provided in subdivision (1), subsection (a) of this section, only the holders of shares of that voting group are entitled to vote to fill the vacancy.

(c) A vacancy that will occur at a specific later date by reason of a resignation effective at a later date under subsection (b), section eight hundred seven of this article or otherwise may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

WV Legislature