WEST VIRGINIA CODE: §37-4-3

§37-4-3. Allotment or sale; procedure for allotment.

When partition cannot be conveniently made, the entire subject may be allotted to any party or parties who will accept it, and pay therefor to the other party or parties such sum of money as his or their interest therein may entitle him or them to; or in any case in which partition cannot be conveniently made, if the interests of one or more of those who are entitled to the subject, or its proceeds, will be promoted by a sale of the entire subject, or allotment of part and sale of the residue, and the interest of the other person or persons so entitled will not be prejudiced thereby, the court, notwithstanding the fact that any of those entitled may be an infant, insane person, or convict, may order such sale, or such sale and allotment, and make distribution of the proceeds of sale, according to the respective rights of those entitled, taking care, when there are creditors of any deceased person who was a tenant in common, joint tenant, or coparcener, to have the proceeds of such deceased person's part applied according to the rights of such creditors. Where it clearly appears to the court that partition cannot be conveniently made, the court may order sale without appointing commissioners. The court making an order for sale shall, when the dividend of a party exceeds the value of $300, if such party be an infant, insane person, or convict, require security for the faithful application of the proceeds of his interest, in like manner as if the sale were made under article one of this chapter.

In the event that allotment shall be made as aforesaid and the person or persons entitled to the proceeds, for any reason, cannot agree upon the value of the subject, the court, or the judge thereof in vacation, shall appoint three disinterested and qualified persons to fix the value of the whole subject who, after being duly sworn to make an appraisal of the fair market value of the subject, shall within thirty days from the taking of such oath, appraise the subject and make and file a written report of their findings in the office of the clerk of the court in which the suit is pending. If such appraisers report their disagreement, or fail to file such report within thirty days, other appraisers may in like manner be appointed, and so again, from time to time, as often as may be necessary. The report of the appraisers when filed, shall be conclusive and binding upon all persons having any interest in the subject, unless an objection is filed thereto in said clerk's office within thirty days after the date of such report by the appraiser. If objection is made to such report, the court, or the judge thereof in vacation, shall take evidence upon the value of the subject in the same manner as in other chancery matters, shall find the fair market value of the subject and shall decree payment therefor according to the respective rights of those entitled thereto as their interest may appear, taking care to protect the rights of creditors as aforesaid in this section.

If any party to the suit refuses or is unable because of any disability, including but not limited to infancy, insanity and conviction of crime, to make, execute and deliver a deed or other instrument transferring title to the subject to the person or persons to whom the subject has been allotted, the court, or the judge thereof in vacation, shall appoint a special

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commissioner for the purposes of accepting the purchase money from the person or persons to whom the subject has been allotted, making, executing and delivering thereto a deed or other instrument therefor and distributing such purchase money according to the respective rights of those persons entitled thereto. The special commissioner so appointed shall give bond and be governed in all respects as provided in section one, article twelve, chapter fifty-five of this code.

WV Legislature