WEST VIRGINIA CODE: §41-3-6

§41-3-6. Operation of devise or bequest as exercise of power of appointment.

A devise or bequest shall extend to any real or personal estate which the testator has power to appoint as he may think proper, and to which it would apply if the estate were his own property, and shall be construed to operate as an exercise of such power with respect to such property unless a contrary intention shall appear by the will of said testator, or unless:

(a) The instrument creating said power of appointment (whether said instrument was executed before or after the effective date of this section) provides that such power must be specifically referred to and expressly exercised; and

(b) The instrument creating said power of appointment contains a provision disposing of said real or personal estate in the event of the failure of the donee of the power to so exercise said power.

WV Legislature