# WEST VIRGINIA CODE: §42-3-3A

**§42-3-3a. Waiver of right to elect; other rights.**

(a) The right of election of a surviving spouse may be waived, wholly or partially, before or after marriage, by a written contract, agreement, or waiver signed by the surviving spouse.

(b) A surviving spouse's waiver is not enforceable if the surviving spouse proves that:

(1) He or she did not execute the waiver voluntarily; or

(2) The waiver was unconscionable when it was executed and, before execution of the waiver, he or she:

(i) Was not provided a fair and reasonable disclosure of the property or financial obligations of the decedent;

(ii) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the decedent beyond the disclosure provided; and

(iii) Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the decedent.

(c) An issue of unconscionability of a waiver is for decision by the court as a matter of law.

(d) Unless it provides to the contrary, a waiver of "all rights," or equivalent language, in the property or estate of a present or prospective spouse or a complete property settlement entered into after or in anticipation of separation or divorce is a waiver of all rights of elective share by each spouse in the property of the other and renunciation by each of all benefits that would otherwise pass to him or her from the other by intestate succession or by virtue of any will executed before the waiver or property settlement.

WV Legislature