# WEST VIRGINIA CODE: §42-6-5

**§42-6-5. Power to disclaim; general requirements; when irrevocable.**

(a) A person may disclaim, in whole or part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

(b) Except to the extent a fiduciary's right to disclaim is expressly restricted or limited by another statute of this state or by the instrument creating the fiduciary relationship, a fiduciary may disclaim, in whole or part, any interest in or power over property, including a power of appointment, whether acting in a personal or representative capacity. A fiduciary may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim, or an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

(c) To be effective, a disclaimer must be in writing, declare the disclaimer, describe the interest or power disclaimed, be signed by the person making the disclaimer, be acknowledged in such a manner as would authorize a deed to be admitted of record and be delivered or filed in the manner provided in section twelve of this article.

(d) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power or any other interest or estate in the property.

(e) A disclaimer becomes irrevocable when it is delivered, filed or recorded pursuant to the provisions of section twelve of this article or when it becomes effective as provided in sections six through eleven, inclusive, of this article, whichever occurs later.

(f) A disclaimer made under this article is not a transfer, assignment or release and relates back for all purposes to the time the disclaimer takes effect pursuant to the provisions of section six of this article.

WV Legislature