WEST VIRGINIA CODE CHAPTER 44 ARTICLE 11

WV Legislature

§44-11-1. Transfer of securities of nonresident decedent.

Any bonds or other securities issued by this state or any political subdivision or municipality thereof, or any stocks, bonds or other securities issued by any corporation created by this state, or by any national banking association having its principal office in this state, standing in the name of a decedent, domiciled at the time of his death out of this state, and who is not known, by the officer or agent charged with the duty of transferring such stocks, bonds, or other securities, to have a personal representative qualified as such within this state, may be transferred by the executor or administrator of such decedent qualified according to the laws of the domicile, when affidavit shall have been filed as prescribed in the next section.

WV Legislature

§44-11-2. Affidavit as to publication of notice.

There shall be filed, with such officer or agent as is mentioned in the preceding section, the affidavit of some credible person that notice of the proposed transfer has been published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which are kept the books upon which the transfer is proposed to be made. But if, before such transfer be actually made, a notice in writing forbidding the same be served on such officer or agent, such transfer only shall be made as would have been lawful if this and the preceding section had not been enacted.

WV Legislature

§44-11-3. Transfer of property of nonresident infant or insane person to foreign guardian or committee.

When any infant or insane person, entitled to property or money in this state, resides out of it, a petition to remove such property or money to the domicile of such infant or insane person may be filed by his guardian or his committee lawfully appointed or qualified in the state or country of his domicile, in the circuit court of the county wherein the guardian or committee in this state was appointed or qualified, or if there be none, in which the property or money, or some part thereof, is. To such petition the guardian of such infant or the committee of such insane person appointed or qualified in this state, if there be one, shall be made a party defendant. Upon a hearing of the case on its merits, the court may order the guardian or committee in this state, if there be one, to pay and deliver to such foreign guardian or committee, or his agent or attorney, all personal property and money in his hands belonging to such infant or insane person, and authorize such foreign guardian or committee to sue for, recover and receive all money or personal property which belongs to the infant or insane person, including the accruing rents of his real estate, in like manner as if he were appointed a guardian or committee of such infant or insane person in this state, and to remove the same to the state or country in which such foreign guardian or committee was appointed or qualified.

WV Legislature

§44-11-4. How proceeds of sale of real estate of nonresident infant, insane person, or cestui que trust transferred to foreign guardian, committee or trustee.

When the proceeds of sale of real estate of an infant, insane person or cestui que trust, under the laws now in force, are invested, or required to be invested, under the direction of a court, and such infant, insane person or cestui que trust resides out of this state, on the petition of a guardian, committee or trustee, lawfully appointed or qualified in the state or country of the domicile of such infant, insane person or cestui que trust, the court under whose directions such proceeds are so invested, or required to be invested, may, with the consent of the persons residing in this state who would be the heirs of such infant, insane person or cestui que trust, if he were dead, order such proceeds to be paid and delivered to such foreign guardian, committee or trustee, or his agent or attorney, and the same may be removed by him to the state or country in which he was appointed or qualified: Provided, That whenever, in the judgment of the court, the removal of the trust subject will defeat or conflict with the provisions of the deed, will or other instrument creating the trust, the court may refuse to grant the prayer of the petition.

WV Legislature

§44-11-5. Notice of application and evidence required before order of transfer made.

No such order as is mentioned in the two preceding sections shall be made until notice of the application shall have been published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the petition is filed; nor until it shall be shown by authentic documentary evidence that such foreign guardian, committee or trustee has, where he qualified, given bond, with surety sufficient to insure his accountability for the whole amount of the estate of such infant, insane person, or cestui que trust in his hands, or which will probably be received by him as such guardian, committee or trustee; nor until the court shall be satisfied that the removal of such money or property from this state will not impair the rights or be prejudicial to the interests of such infant, insane person or cestui que trust or of any other person.

WV Legislature

§44-11-6. How personal estate in hands of resident trustee, belonging to nonresident beneficiaries, transferred.

When any personal estate in this state is vested in a trustee resident therein, or who acts by virtue of a deed, will, or other instrument, recorded or probated therein, or when any administrator or executor in this state has assets in his hands of a decedent who at the time of his death was domiciled in another state, and those having the beneficial interests in such estate or assets are nonresidents of this state, the circuit court of the county in which such trustee, administrator, or executor may reside, or in which such estate may be, may, upon petition or bill in equity filed for that purpose, order such trustee or his personal representative, or such administrator or executor, to pay, transfer and deliver such estate or assets, or any part thereof to a nonresident trustee, administrator or executor, appointed by some court of record in the state in which such beneficiaries reside.

WV Legislature

§44-11-7. What notice and evidence required before such transfer made.

No such order as is mentioned in the preceding section shall, when applied for by petition, be made until notice of the application shall have been given to all persons interested in such trust estate, either by personal service or by publication of such notice as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county wherein the petition is filed. Whether the application be by petition or bill in equity, such order shall not be made until the court shall be satisfied by authentic documentary evidence that the nonresident trustee, administrator, or executor, appointed as aforesaid, has given bond with sufficient security for the faithful execution of the trust, nor until it is satisfied that the payment and removal of such estate out of the state will not prejudice the right of any person interested or to become interested therein.

WV Legislature

§44-11-8. Court may order sale of property.

If, in any proceeding or suit under the third or sixth sections of this article, it shall appear to the court to be proper, it may order the property, or any part of it, to be sold and the proceeds to be paid to the nonresident guardian, committee, trustee, administrator or executor.

WV Legislature

§44-11-8a. Removal of property of resident infant, incompetent or insane person from this state by nonresident testamentary guardian or nonresident committee.

(a) No property or money in this state belonging to a resident infant, incompetent or insane person may be removed from this state by a nonresident testamentary guardian or nonresident committee appointed or qualified in this state unless:

(1) Such nonresident testamentary guardian or nonresident committee files a petition to remove such property or money in the circuit court of the county wherein such guardian or committee was appointed or qualified, or in which the property or money, or some part thereof, is located;

(2) The infant, incompetent or insane person is made a party defendant to such petition;

(3) Notice of the petition is filed as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication is the county in which the petition is filed; and

(4) The court determines, after a hearing, that the removal of such property or money will not impair the rights of or be prejudicial to the interests of such infant, incompetent or insane person, or of any other person.

(b) If any nonresident testamentary guardian or nonresident committee removes from this state property or money belonging to a resident infant, incompetent or insane person without obtaining an order entered pursuant to the provisions of subsection (a) of this section, the same shall work a forfeiture of his bond, and the liability of such nonresident guardian or committee and of his surety shall be joint and several, and a civil action on any such bond may be instituted and maintained against the surety, notwithstanding any other provision of this code to the contrary, even though no civil action has been instituted against the nonresident testamentary guardian or nonresident committee.

(c) Notwithstanding any provision of section nine of this article to the contrary, any nonresident testamentary guardian or nonresident committee who obtains an order described in subsection (a) of this section shall remain accountable to the county commission of the county in which he was appointed or qualified.

WV Legislature

§44-11-9. Discharge of guardian, committee, or trustee making transfer.

When any guardian, committee, trustee, or other person in this state shall pay over, transfer or deliver any estate in his hands or vested in him as directed by any order or decree made in pursuance of this article, he shall be discharged from all responsibility therefor.

WV Legislature

§44-11-10. Judge of circuit court may act in vacation.

The judge of the circuit court in vacation, on such proof and notice as is required of the circuit court, may make any order that is authorized by this article to be made by the circuit court.

WV Legislature