WEST VIRGINIA CODE: §44-5A-2

§44-5A-2. Incorporation by reference of enumerated powers by testator; restriction on exercise of powers.

(a) After June 30, 2011, by an intention of the testator expressed in a will, any or all of the powers or any portion of the powers enumerated in section three of this article, as they exist at the time of the signing of the will by the testator may be, by appropriate reference made thereto, incorporated in the will, with the same effect as though the language were set forth verbatim in the instrument. Incorporation of one or more of the powers contained in section three of this article by reference to that section is in addition to and not in limitation of the common law or statutory powers of the fiduciary.

(b) No power of authority conferred upon a fiduciary as provided in this article may be exercised by the fiduciary in a manner as, in the aggregate, to deprive the trust or the estate involved of an otherwise available tax exemption, deduction or credit, expressly including the marital deduction, or operate to impose a tax upon a donor or testator or other person as owner of any portion of the trust or estate involved. "Tax" includes, but is not limited to, any federal, state, or local income, gift, estate or inheritance tax.

(c) Nothing in this section prevents the incorporation of the powers enumerated in section three of this article in any other kind of instrument or agreement.

WV Legislature