WEST VIRGINIA CODE: §44D-7-703

§44D-7-703. Cotrustees.

(a) Unless otherwise provided in the terms of the trust instrument, cotrustees who are unable to reach a unanimous decision may act by majority decision. Unless otherwise provided by the trust instrument, when a dispute arises among trustees as to the exercise or nonexercise of any of their powers and there is no agreement by a majority of them, the court in its discretion upon a petition filed by any of the trustees, the grantor, if living, a qualified beneficiary, or any interested person, may direct the exercise or nonexercise of the power as it considers necessary for the best interest of the trust.

(b) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust, unless otherwise provided in the terms of the trust instrument.

(c) Subject to the provisions of §44D-8A-801 *et seq.* of this code, a cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.

(d) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

(e) A trustee may delegate to a cotrustee the performance of a function other than a function that the terms of the trust expressly require to be performed by the trustees jointly. Unless a delegation was irrevocable, a trustee may revoke a delegation of a function previously made.

(f) Except as otherwise provided in subsection (g) of this section, a trustee who does not join in an action of another trustee is not liable for the action.

(g) Subject to the provisions of §44D-8A-801 *et seq.* of this code, each trustee shall exercise reasonable care to:

(1) Prevent a cotrustee from committing a serious breach of trust; and

(2) Compel a cotrustee to redress a serious breach of trust.

(h) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notifies any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.

WV Legislature