

WEST VIRGINIA CODE: §44d-7-704

§44D-7-704. Vacancy in trusteeship; appointment of successor.

(a) A vacancy in a trusteeship occurs if:

- (1) A person designated as trustee rejects the trusteeship;
- (2) A person designated as trustee cannot be identified or does not exist;
- (3) A trustee resigns;
- (4) A trustee is disqualified or removed;
- (5) A trustee dies; or
- (6) A guardian or conservator is appointed for an individual serving as trustee.

(b) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled unless otherwise provided in the terms of the trust instrument. A vacancy in a trusteeship shall be filled if the trust has no remaining trustee.

(c) Unless otherwise provided in the terms of the trust instrument, a vacancy in a trusteeship of a noncharitable trust that is required to be filled shall be filled in the following order of priority:

- (1) By a person designated in the terms of the trust instrument to act as successor trustee;
- (2) By a person appointed by a unanimous record of the qualified beneficiaries; or
- (3) By a person appointed by the court having jurisdiction of the trust.

(d) Unless otherwise provided, a vacancy in a trusteeship of a charitable trust that is required to be filled shall be filled in the following order of priority:

- (1) By a person designated in the terms of the trust to act as successor trustee;
- (2) By a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust instrument if the Attorney General of West Virginia either concurs in a record to the selection or fails to make a written objection to the selection within 90 days after receiving by certified or registered mail a notice of the selection by the charitable organizations; or
- (3) By a person appointed by the court having jurisdiction over the trust.

(e) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may

upon petition of the grantor, a qualified beneficiary, or a cotrustee, appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.