WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1957

ENROLLED

HOUSE BILL No. 287

(By Mr. Whaley)

PASSED March 5, 1957

In Effect 90 days from Passage
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(By Mr. Whaley)

[Passed March 5, 1957; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to inheritance and transfer taxes.

**Be it enacted by the Legislature of West Virginia:**

That section one, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. **When Imposed.**—A tax, payable into the treasury of the state, shall be imposed upon the transfer, in trust, or otherwise, of any property, or interest therein, real, personal, or mixed, if such transfer be: (a) By will or by laws of this state regulating descent and distribution from any person who is a resident of the state at the time of his death and who shall die seized or possessed
of property; (b) By will or by laws regulating descent and distribution of property within the state, or within its taxing jurisdiction, and the decedent was a nonresident of the state at the time of his death; (c) By a resident, or by a nonresident owning taxable property within the state or within its jurisdiction, by deed, grant, sale or gifts, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death, or where any change in the use or enjoyment of property included in such transfer, or the income thereof, may occur in the lifetime of the grantor, vendor, or donor, by reason of any power reserved to, or conferred upon, the grantor, vendor, or donor, either solely or in conjunction with any person, or persons, to alter, or to amend, or to revoke any transfer, or any portion thereof, as to the portion remaining at the time of death of the grantor, vendor, or donor, thus subject to alteration, amendment or revocation. If any one of the transfers mentioned in this subdivision is made for valuable consideration, the portion of the transfer for which the grantor, or vendor receives equivalent mone-
ary value is not taxable, but the remaining portion thereof is taxable. Every transfer by deed, grant, sale or gift, made within three years prior to the death of the grantor, vendor, or donor, without adequate valuable consideration, shall be presumed to have been made in contemplation of death within the meaning of this subdivision;

(d) By any person who shall transfer any property which he owns, or shall cause any property to which he is absolutely entitled to be transferred to or vested in himself and any other person jointly, with the right of survivorship, in whole or in part, in such other person, a transfer shall be deemed to occur and to be taxable under the provisions of this article upon the vesting of such title in the survivor: Provided, however, That this subsection shall not apply to bank accounts payable to the class designated in section two-a in a total amount of twenty-five hundred dollars or less: And provided further, That, in the case of a surviving spouse, not more than fifty per centum of the value of any transfer mentioned in this subsection (d) shall be included and taxed in any such decedent's estate; (e) To any person deriving an estate
in property, coupled with a power of appointment, in
which event such estate shall be taxed as other limited
estates; and whenever any person shall exercise a power
of appointment derived from any disposition of property
made, which appointment when made shall be deemed
a transfer taxable under the provisions of this article,
in the same manner as though the property to which
such appointment relates belonged absolutely to the
donee of such power and had been bequeathed or de-
vised by such donee by will; and whenever any person
possessing such a power of appointment so derived shall
omit or fail to exercise the same within the time pro-
vided therefor in whole or in part, a transfer taxable
under the provisions of this article shall be deemed to
take place to the extent of such omission or failure, in
the same manner as though the person thereby becoming
entitled to the possession or enjoyment of the property
to which such power related had succeeded thereto by
a will of the donee of the power failing to exercise such
power, and shall take effect at the time of such omission
or failure: Provided, however, That in either of which
events the tax commissioner, on the application of any
person in interest or upon his own motion, may, after due
notice to the known persons interested, apportion such
taxes, first, as to the interest of the donee of the power
of appointment, and second, to the remainder or reversionary interests of others at the highest probable rate
applicable thereto, and shall make his certificate accord-
ingly, which shall be forwarded and disposed of in the
same manner as other certificates herein provided for.
The portion of any such taxes apportioned as to the re-
mainder or reversionary interest shall be paid out of the
corpus of the estate in like manner as other assessments
as if such interest had vested in possession; and, upon
such assessment and payment of the tax the matter shall
become a finality; (f) By the terms of any annuity or
investment contracts, or similar type or form of contract
or policy, and shall be on the amount payable under any
such contract or policy, on account of a death, to named
beneficiaries, to his estate or in trust for the benefit of
any individual or individuals, including (1) all such poli-
cies or contracts hereafter issued, and (2) all such policies
or contracts now in force: *Provided, however*, That there shall be exempt from the provisions of this subsection the proceeds of such contracts or policies: (a) When the premiums on such policies or contracts were paid by the beneficiary named in such policy or contract, to the extent only of the ratio of premiums paid by the beneficiary bear to the total premiums paid; (b) When the proceeds of such policies or contracts have been assigned by the decedent for a valuable consideration either in form absolute or as collateral security for the payment of a bona fide indebtedness of the decedent, to the extent that the proceeds thereof shall be necessary to pay and satisfy such indebtedness. It is provided, however, that no annuity settlement or arrangement accepted in lieu of cash settlement of a life insurance policy, whereby the proceeds of such policy are payable in instalments, shall be subject to taxation under the provisions of this article, nor shall the provisions of this article apply to the proceeds of any policy of life or accident insurance payable to a named beneficiary or beneficiaries whether directly or in trust or otherwise.
Where annuity or investment contracts or policies are left by a decedent in such manner that the proceeds thereof cannot be subjected to the payment of his debts, and where the proceeds of such annuity or investment contracts are received by beneficiaries thereof, the fact that the decedent may have been insolvent and that a portion of his debts may remain unpaid shall not affect the liability for inheritance tax on such proceeds.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker, House of Delegates

The within approved this the 14th day of March 1957.

Governor

Filed in the Office of the Secretary of State of West Virginia, MAR 14 1957

D. Pitt O'Brien
SECRETARY OF STATE