WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1957

ENROLLED
SENATE BILL NO. 97

(By Mr. Marsi)

PASSED Feb. 25, 1957
In Effect 90 days from Passage
AN ACT to amend and reenact section three, article four, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the allotment or sale of property and the procedure therefor.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Allotment or Sale; Procedure For Allotment.

2 —When partition cannot be conveniently made, the entire subject may be allotted to any party or parties who
will accept it, and pay therefor to the other party or
parties such sums of money as his or their interest
therein may entitle him or them to; or in any case in
which partition cannot be conveniently made, if the in-
terests of one or more of those who are entitled to the
subject, or its proceeds, will be promoted by a sale of
the entire subject, or allotment of part and sale of the
residue, and the interest of the other person or persons
so entitled will not be prejudiced thereby, the court, not-
withstanding the fact that any of those entitled may be
an infant, insane person, or convict, may order such sale,
or such sale and allotment, and make distribution of the
proceeds of sale, according to the respective rights of
those entitled, taking care, when there are creditors of
any deceased person who was a tenant in common, joint
tenant, or coparcener, to have the proceeds of such de-
ceased person's part applied according to the rights of
such creditors. Where it clearly appears to the court that
partition cannot be conveniently made the court may
order sale without appointing commissioners. The court
making an order for sale shall, when the dividend of a
party exceeds the value of three hundred dollars, if such
party be an infant, insane person, or convict, require se-
curity for the faithful application of the proceeds of his
interest, in like manner as if the sale were made under
article one of this chapter.

In the event that allotment shall be made as afore-
said and the person or persons entitled to the proceeds,
for any reason, cannot agree upon the value of the sub-
ject, the court, or the judge thereof in vacation, shall ap-
point three disinterested and qualified persons to fix the
value of the whole subject, who, after being duly sworn to
make an appraisal of the fair market value of the subject,
shall within thirty days from the taking of such oath, ap-
praise the subject and make and file a written report of
their findings in the office of the clerk of the court in
which the suit is pending. If such appraisers report their
disagreement, or fail to file such report within thirty days,
other appraisers may in like manner be appointed, and
so again, from time to time, as often as may be neces-
sary. The report of the appraisers when filed, shall be
conclusive and binding upon all persons having any in-
terest in the subject, unless an objection is filed thereto
in said clerk's office within thirty days after the date of
the filing of such report by the appraisers. If objection
is made to such report, the court, or the judge thereof in
vacation, shall take evidence upon the value of the sub-
ject in the same manner as in other chancery matters,
shall find the fair market value of the subject and shall
decree payment therefor according to the respective rights
of those entitled thereto as their interest may appear,
taking care to protect the rights of creditors as aforesaid
in this section.

If any party to the suit refuses, or is unable because of
any disability, including but not limited to infancy, in-
sanity and conviction of crime, to make, execute and de-
liver a deed or other instrument transferring title to the
subject to the person or persons to whom the subject has
been allotted, the court, or the judge thereof in vacation,
shall appoint a special commissioner for the purposes of
accepting the purchase money from the person or per-
sons to whom the subject has been allotted, making, exe-
cuting and delivering thereto a deed or other instrument
therefor and distributing such purchase money according
to the respective rights of those persons entitled thereto.
The special commissioner so appointed shall give bond
and be governed in all respects as provided in section
one, article twelve, chapter fifty-five of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

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 11th day of March 1957.

Governor

Filed in the Office of the Secretary of State by West Virginia on MAR 12 1957.