

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1961



ENROLLED

274

HOUSE BILL No... 274...

(By Mr. Seibert and Mr. White)



PASSED March 8, 1961

In Effect Ninety Days from Passage

Filed in Office of the Secretary of State  
of West Virginia MAR 17 1961  
JOE F. BURDETT  
SECRETARY OF STATE

ENROLLED

# House Bill No. 274

(By MR. SEIBERT and MR. WHITE)

[Passed March 8, 1961; in effect ninety days from passage.]

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding to said chapter a new article, numbered and designated article four-d, relating to fiduciary security transfers, and adopting the uniform act for simplification of fiduciary security transfers.

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

That chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, numbered and designated article four-d, to read as follows:

**Article 4-d. Uniform Act for Simplification of Fiduciary Security Transfers.**

Section 1. *Definitions.*—In this article, unless the con-  
2 text otherwise requires:

3 (a) "Assignment" includes any written stock power,  
4 bond power, bill of sale, deed, declaration of trust or other  
5 instrument of transfer.

6 (b) "Claim of beneficial interest" includes a claim of  
7 any interest by a decedent's legatee, distributee, heir or  
8 creditor; a beneficiary under a trust, a ward, a beneficial  
9 owner of a security registered in the name of a nominee,  
10 or a minor owner of a security registered in the name of a  
11 custodian, or a claim of any similar interest, whether the  
12 claim is asserted by the claimant or by a fiduciary or by  
13 any other authorized person on his behalf, and includes a  
14 claim that the transfer would be in breach of fiduciary  
15 duties.

16 (c) "Corporation" means a private or public corpora-  
17 tion, association or trust issuing a security.

18 (d) "Fiduciary" means an executor, administrator,  
19 trustee, guardian, committee, conservator, curator, tutor,  
20 custodian or nominee.

21 (e) "Person" includes an individual, a corporation,  
22 government or governmental subdivision or agency, busi-  
23 ness trust, estate, trust, partnership or association, two or

24 more persons having a joint or common interest, or any  
25 other legal or commercial entity.

26 (f) "Security" includes any share of stock, bond, de-  
27 benture, note or other security issued by a corporation  
28 which is registered as to ownership on the books of the  
29 corporation.

30 (g) "Transfer" means a change on the books of a cor-  
31 poration in the registered ownership of a security.

32 (h) "Transfer agent" means a person employed or  
33 authorized by a corporation to transfer securities issued  
34 by the corporation.

Sec. 2. *Registration in the Name of a Fiduciary.*—A cor-  
2 poration or transfer agent registering a security in the  
3 name of a person who is a fiduciary or who is described  
4 as a fiduciary is not bound to inquire into the existence,  
5 extent, or correct description of the fiduciary relationship,  
6 and thereafter the corporation and its transfer agent may  
7 assume without inquiry that the newly registered owner  
8 continues to be the fiduciary until the corporation or  
9 transfer agent receives written notice that the fiduciary

10 is no longer acting as such with respect to the particular  
11 security.

Sec. 3. *Assignment by a Fiduciary.*—Except as otherwise provided in this article, a corporation or transfer agent making a transfer of a security pursuant to an assignment by a fiduciary:

5 (a) May assume without inquiry that the assignment,  
6 even though to the fiduciary himself or to his nominee, is  
7 within his authority and capacity and is not in breach of  
8 his fiduciary duties;

9 (b) May assume without inquiry that the fiduciary has  
10 complied with any controlling instrument and with the  
11 law of the jurisdiction governing the fiduciary relationship,  
12 including any law requiring the fiduciary to obtain  
13 court approval of the transfer; and

14 (c) Is not charged with notice of and is not bound to  
15 obtain or examine any court record or any recorded or un-  
16 recorded document relating to the fiduciary relationship  
17 or the assignment, even though the record or document is  
18 in its possession.

Sec. 4. *Evidence of Appointment or Incumbency.*—A

2 corporation or transfer agent making a transfer pursuant  
3 to an assignment by a fiduciary who is not the registered  
4 owner shall obtain the following evidence of appointment  
5 or incumbency:

6 (a) In the case of a fiduciary appointed or qualified  
7 by a court, a certificate issued by or under the direction  
8 or supervision of that court or an officer thereof and dated  
9 within sixty days before the transfer; or

10 (b) In any other case, a copy of a document showing  
11 the appointment or a certificate issued by or on behalf of  
12 a person reasonably believed by the corporation or trans-  
13 fer agent to be responsible or, in the absence of such a  
14 document or certificate, other evidence reasonably deem-  
15 ed by the corporation or transfer agent to be appropriate.  
16 Corporations and transfer agents may adopt standards  
17 with respect to evidence of appointment or incumbency  
18 under this subsection (b) provided such standards are not  
19 manifestly unreasonable. Neither the corporation nor  
20 transfer agent is charged with notice of the contents of  
21 any document obtained pursuant to this subsection (b)

22 except to the extent that the contents relate directly to  
23 the appointment or incumbency.

Sec. 5. *Adverse Claims.*—(a) A person asserting a  
2 claim of beneficial interest adverse to the transfer of a  
3 security pursuant to an assignment by a fiduciary may  
4 give the corporation or transfer agent written notice of  
5 the claim. The corporation or transfer agent is not put  
6 on notice unless the written notice identifies the claimant,  
7 the registered owner and the issue of which the security  
8 is a part, provides an address for communications directed  
9 to the claimant and is received before the transfer. Noth-  
10 ing in this article relieves the corporation or transfer  
11 agent of any liability for making or refusing to make the  
12 transfer after it is so put on notice, unless it proceeds in  
13 the manner authorized in subsection (b).

14 (b) As soon as practicable after the presentation of a  
15 security for transfer pursuant to an assignment by a fidu-  
16 ciary, a corporation or transfer agent which has received  
17 notice of a claim of beneficial interest adverse to the trans-  
18 fer may send notice of the presentation by registered or  
19 certified mail to the claimant at the address given by him.

20 If the corporation or transfer agent so mails such a notice  
21 it shall withhold the transfer for thirty days after the  
22 mailing and shall then make the transfer unless restrained  
23 by a court order.

Sec. 6. *Non-Liability of Corporation and Transfer*  
2 *Agent.*—A corporation or transfer agent incurs no liability  
3 to any person by making a transfer or otherwise acting in  
4 a manner authorized by this article.

Sec. 7. *Non-Liability of Third Persons.*—(a) No person  
2 who participates in the acquisition, disposition, assign-  
3 ment or transfer of a security by or to a fiduciary includ-  
4 ing a person who guarantees the signature of the fidu-  
5 ciary is liable for participation in any breach of fiduciary  
6 duty by reason of failure to inquire whether the trans-  
7 action involves such a breach unless it is shown that he  
8 acted with actual knowledge that the proceeds of the  
9 transaction were being or were to be used wrongfully for  
10 the individual benefit of the fiduciary or that the trans-  
11 action was otherwise in breach of duty.

12 (b) If a corporation or transfer agent makes a transfer  
13 pursuant to an assignment by a fiduciary, a person who

14 guaranteed the signature of the fiduciary is not liable on  
15 the guarantee to any person to whom the corporation or  
16 transfer agent by reason of this act incurs no liability.

17 (c) This section does not impose any liability upon the  
18 corporation or its transfer agent.

Sec. 8. *Law Governing Registering or Transferring*

2 *Securities; Application of Article.*—(a) The rights and  
3 duties of a corporation and its transfer agents in register-  
4 ing a security in the name of a fiduciary or in making a  
5 transfer of a security pursuant to an assignment by a  
6 fiduciary are governed by the law of the jurisdiction  
7 under whose laws the corporation is organized.

8 (b) This article applies to the rights and duties of a  
9 person other than the corporation and its transfer agents  
10 with regard to acts and omissions in this state in con-  
11 nection with the acquisition, disposition, assignment or  
12 transfer of a security by or to a fiduciary and of a person  
13 who guarantees in this state the signature of a fiduciary  
14 in connection with such a transaction.

Sec. 9. *Tax Obligations.*—This article shall not affect

2 any obligation of a corporation or transfer agent with

3 respect to estate, inheritance, succession or other taxes  
4 imposed by the laws of this state.

Sec. 10. *Uniformity of Interpretation.*—This article  
2 shall be so construed as to effectuate its general purpose to  
3 make uniform the law of those states which enact it.

Sec. 11. *Short Title.*—This article may be cited as the  
2 uniform act for simplification of fiduciary security transfers.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Samuel Davis, Jr.*  
Chairman Senate Committee

*Mrs. M. H. Withrow*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*Howard Hayes*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*Harvard W. Carson*  
President of the Senate

*Julius W. Singletary Jr.*  
Speaker House of Delegates

The within approved this the 17<sup>th</sup>  
day of March, 1961.

*M. Baum*  
Governor



Filed in Office of the Secretary of State  
of West Virginia **MAR 17 1961**  
**JOE F. BURDETT**  
SECRETARY OF STATE