

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1963

---

**ENROLLED**

SENATE BILL NO. 26

(By Mr. Carrigan)

---

PASSED March 9 1963

In Effect 90 days from Passage

Filed in Office of the Secretary of State  
of West Virginia 3-15-63  
JOE F. BURDETT  
SECRETARY OF STATE

# 26

**ENROLLED**

**Senate Bill No. 26**

(By MR. CARRIGAN)

---

[Passed March 9, 1963; in effect ninety days from passage.]

---

AN ACT to amend and reenact section six, article three, chapter forty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to wills and specifying the circumstances under which a devise or bequest shall be construed to operate as an exercise of a power of appointment.

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

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

**Section 6. Operation of Devise or Bequest as Exercise of**

**2 Power of Appointment.**—A devise or bequest shall extend  
**3** to any real or personal estate which the testator has pow-

4 er to appoint as he may think proper, and to which it  
5 would apply if the estate were his own property, and shall  
6 be construed to operate as an exercise of such power with  
7 respect to such property unless a contrary intention shall  
8 appear by the will of said testator, or unless:

9 (a) The instrument creating said power of appointment  
10 (whether said instrument was executed before or after  
11 the effective date of this section) provides that such pow-  
12 er must be specifically referred to and expressly exer-  
13 cised; and

14 (b) The instrument creating said power of appointment  
15 contains a provision disposing of said real or personal es-  
16 tate in the event of the failure of the donee of the power  
17 to so exercise said power.

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

*O. Ray Parker*  
Chairman Senate Committee

*Ethel L. Crandall*  
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

*J. Dennis Thayer*  
Clerk of the Senate

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

*Howard W. Baum*  
President of the Senate

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

The within approved this the 14<sup>th</sup>  
day of March, 1963.

*Howard W. Baum*  
Governor

