WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1971

ENROLLED

HOUSE BILL No. 657

(By Mr. LOOP)

PASSED FEBRUARY 22, 1971

In Effect NINETY DAYS FROM Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-2-71
AN ACT to amend and reenact sections one, two, three, four and five, article five, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the release or disclaimer of powers of appointment.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. RELEASE OR DISCLAIMER OF POWERS OF APPOINTMENT.

§36-5-1. Release or disclaimer of general power of appointment.

1 Any general power, whether exercisable by will, by
deed, by will or deed, or otherwise, to appoint property, 
whether real or personal or both, may be released or 
disclaimed by the person or persons having such power, 
with or without consideration, wholly or partially. Any 
such power may be released or disclaimed with respect 
to the whole or any part of the property subject thereto; 
and any such power may also be released or disclaimed 
in such manner as to reduce, limit, or restrict the persons 
or objects, or classes of persons or objects, to or among 
any one or more of whom, but no others, the property 
subject to such power may be appointed by an exercise 
thereof, as fully as the creator of such power himself 
could have so reduced, limited or restricted the same and 
with like effect as if he had.

§36-5-2. Method of effecting release or disclaimer of power of appointment.

Any release or disclaimer mentioned in section one of 
this article may be effected by a written instrument 
signed and acknowledged as a deed by the person or 
persons having the general power to appoint mentioned 
in that section; and such instrument may be delivered by 
fil ing it for record in the office of the clerk of the county
court of the county wherein the will, deed or other instrument creating such power is recorded. Such clerk shall record such instrument of release or disclaimer as a deed is recorded, index it, and note a reference to the record thereof on the margin of the record of the will, deed or other instrument creating such power.

§36-5-3. Release or disclaimer of other than general power of appointment.

Any other power than a general one, whether exercisable by will, by deed, by will or deed, or otherwise, to appoint property, real or personal or both, may be released or disclaimed to the extent that a release or disclaimer thereof would not be contrary to any manifest intent or purpose of the creator of such power expressly set forth in the will, deed or other instrument creating such power; and to the extent so releasable or disclaimable it may be released or disclaimed in like manner as above provided in this article for the release or disclaimers of a general power of appointment, and with like effect.
§36-5-4. Validity of release or disclaimer of power of appointment heretofore made.

1 Any release or disclaimer of a general or other releasable or disclaimable power of appointment heretofore made in conformity with the provisions of the foregoing sections of this article shall be as valid, binding and effective as if hereafter so made.

§36-5-5. Other methods of release or disclaimer of power of appointment not affected.

1 Nothing in this article contained shall affect the validity of any release or disclaimer of any power of appointment heretofore or hereafter lawfully effected in any other form or manner.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Phyllis Rutledge
Chairman House Committee

Originated in the House.

Takes effect ninety 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 1st day of March, 1971.

Governor