

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

657

**ENROLLED**  
**House Bill No. 657**  
(By Mr. LOOP)

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[Passed February 22, 1971; in effect ninety days from passage.]

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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

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

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

1 Any release or disclaimer mentioned in section one of  
2 this article may be effected by a written instrument  
3 signed and acknowledged as a deed by the person or  
4 persons having the general power to appoint mentioned  
5 in that section; and such instrument may be delivered by  
6 filing it for record in the office of the clerk of the county

7 court of the county wherein the will, deed or other in-  
8 strument creating such power is recorded. Such clerk  
9 shall record such instrument of release or disclaimer as  
10 a deed is recorded, index it, and note a reference to the  
11 record thereof on the margin of the record of the will,  
12 deed or other instrument creating such power.

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

1 Any other power than a general one, whether exer-  
2 cisable by will, by deed, by will or deed, or otherwise,  
3 to appoint property, real or personal or both, may be  
4 released or disclaimed to the extent that a release or  
5 disclaimer thereof would not be contrary to any manifest  
6 intent or purpose of the creator of such power expressly  
7 set forth in the will, deed or other instrument creating  
8 such power; and to the extent so releasable or disclaim-  
9 able it may be released or disclaimed in like manner as  
10 above provided in this article for the release or dis-  
11 claimer of a general power of appointment, and with like  
12 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 re-  
2 leasable or disclaimable power of appointment heretofore  
3 made in conformity with the provisions of the foregoing  
4 sections of this article shall be as valid, binding and  
5 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  
2 of any release or disclaimer of any power of appointment  
3 heretofore or hereafter lawfully effected in any other  
4 form or manner.

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

Russell M. Beale  
Chairman Senate Committee

Phyllis R. Rutledge  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Myers  
Clerk of the Senate

C. Blankenship  
Clerk of the House of Delegates

E. Spivey  
President of the Senate

Love F. Boianky  
Speaker House of Delegates

The within approved this the 1<sup>st</sup>  
day of March, 1971.

Archie Shaver Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

Date 2/24/71

Time 1:45 p.m.

RECEIVED

MAR 2 12 43 PM '71

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA