ENROLLED

Senate Bill No. 11
(By Mr. Steptoe)

[Passed March 8, 1977; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article four, chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to disclaimer of gifts under wills or property passing by intestacy; increasing time within which such disclaimer may be made from two to six months; allowing disclaimer in whole or in part.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 4. GENERAL PROVISIONS.

§42-4-3. Disclaimer of gifts under wills or property passing by intestacy.

1. Any devisee or legatee who is sui juris, shall have the right, within six months from the date on which the will is admitted to probate, to disclaim such devise or bequest in whole or in part. If the will be contested, or the order admitting it to probate be appealed from, such disclaimer may be made within six months of the final decision on such contest or appeal. The devise or bequest so disclaimed shall pass as the will directs where there is a provision for disclaimer contained in the will making a specific alternative disposition of such property, and, in the absence of any such provision said devise or bequest shall pass as if the person so disclaiming had immediately predeceased the testator.
Any heir-at-law or distributee under the laws of descent and distribution who is sui juris, shall have the right, within six months of the date of death of the decedent, to disclaim such real or personal property in whole or in part. The property so disclaimed shall pass by the laws of descent and distribution of this state as if the person so disclaiming had immediately predeceased the decedent.

Any such disclaimer shall be made by a writing signed by the person so disclaiming and acknowledged in such manner as would authorize a deed to be admitted to record and shall be filed and recorded in the office of the clerk of the county commission by which the will is admitted to probate or, in the event of intestacy, in the office of the clerk of the county commission in which the decedent's estate is administered; and in either event, such disclaimer shall be recorded with fiduciary orders or probate documents, or both. Said gift or property so disclaimed shall be considered as never having vested in any manner whatsoever in the person so disclaiming.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James I. Davis  
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J. B. Hill
Clerk of the Senate

D. A. Blankenship  
Clerk of the House of Delegates

J. E. Bass  
President of the Senate

Donald L. Happ  
Speaker House of Delegates

The within approved this the 14

day of March, 1977.

John D. Rudyell  
Governor
Approved and signed:
March 14, 1977
1:45 p.m.