

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977



ENROLLED

HOUSE BILL No. 826

(By Mr. Martin)



PASSED April 8, 1977

In Effect ninety days from Passage

**ENROLLED**

**H. B. 826**

(By MR. MARTIN)

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

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AN ACT to amend and reenact section four, article three, chapter forty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to preventing failure of devise or bequest because of void residuary clause in will.

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

That section four, 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:

**ARTICLE 3. PROVISIONS AS TO CONSTRUCTION.**

**§41-3-4. Failure or invalidity of devise or bequest.**

1 Unless a contrary intention shall appear by the will, such  
2 real or personal estate, or interest therein, as shall be  
3 comprised in any devise or bequest in such will, which de-  
4 vise or bequest shall fail or be void, or be otherwise in-  
5 capable of taking effect, shall, if the estate be real estate,  
6 be included in the residuary devise, or, if the estate be personal  
7 estate, in the residuary bequest, if any residuary devise or be-  
8 quest be contained in such will, and, in the absence of such  
9 residuary devise or bequest, shall pass as in case of intestacy.  
10 However, when a devise or bequest shall be included in a  
11 residuary clause of the will, which devise or bequest shall fail or  
12 be void or be otherwise incapable of taking effect, it shall not  
13 pass as in case of intestacy but shall pass to the remaining

14 residuary devisees or legatees or devisee or legatee, if any  
15 there be, in proportion to their respective shares or interests in  
16 the residue.

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

*James L. Davis*  
Chairman Senate Committee

*Clarence C. Christy*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*J. C. Hillon, Jr.*  
Clerk of the Senate

*C. Blankenship*  
Clerk of the House of Delegates

*H. Brothman, Jr.*  
President of the Senate

*Donald L. Kopp*  
Speaker House of Delegates

The within *is approved* this the *24*  
day of *April*, 1977.

*John P. Belcher*  
Governor

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OFFICE OF THE GOVERNOR

APPROVED AND SIGNED BY THE GOVERNOR

Date April 24, 1977

Time 3:40 p.m.

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OFFICE  
SECY. OF STATE