

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977



ENROLLED

SENATE BILL NO. 11

(By Mr. Stephens)



PASSED March 8, 1977

In Effect ninty days from Passage



**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  
2 right, within six months from the date on which the  
3 will is admitted to probate, to disclaim such devise or  
4 bequest in whole or in part. If the will be contested, or  
5 the order admitting it to probate be appealed from, such  
6 disclaimer may be made within six months of the final  
7 decision on such contest or appeal. The devise or bequest  
8 so disclaimed shall pass as the will directs where there is  
9 a provision for disclaimer contained in the will making a  
10 specific alternative disposition of such property, and, in  
11 the absence of any such provision said devise or bequest  
12 shall pass as if the person so disclaiming had immediately  
13 predeceased the testator.

14 Any heir-at-law or distributee under the laws of  
15 descent and distribution who is sui juris, shall have the  
16 right, within six months of the date of death of the  
17 decedent, to disclaim such real or personal property in  
18 whole or in part. The property so disclaimed shall pass by  
19 the laws of descent and distribution of this state as if the  
20 person so disclaiming had immediately predeceased the  
21 decedent.

22 Any such disclaimer shall be made by a writing signed  
23 by the person so disclaiming and acknowledged in such  
24 manner as would authorize a deed to be admitted to  
25 record and shall be filed and recorded in the office of the  
26 clerk of the county commission by which the will is  
27 admitted to probate or, in the event of intestacy, in the  
28 office of the clerk of the county commission in which the  
29 decedent's estate is administered; and in either event,  
30 such disclaimer shall be recorded with fiduciary orders  
31 or probate documents, or both. Said gift or property so  
32 disclaimed shall be considered as never having vested in  
33 any manner whatsoever in the person so disclaiming.

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

*James L. Davis*  
Chairman Senate Committee

*James C. Christian*  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

*J. S. Halloway*  
Clerk of the Senate

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

*J. B. Bohannon*  
President of the Senate

*Donald L. Kopp*  
Speaker House of Delegates

The within is approved this the 14

day of March, 1977.

*John D. Ruly*  
Governor



RECEIVED

MAR 10 3 58 PM '77

OFFICE OF THE GOVERNOR

Approved and signed:

March 14, 1977

1:45 p.m.

RECEIVED

77 MAR 18 A 9: 47

OFFICE  
SECRETARY OF STATE