WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1986

ENROLLED

HOUSE BILL No. 1213

(By #1. Del M. Harmon & Del. J. Martin)

Passed January 31, 1986

In Effect from Passage
ENROLLED

H. B. 1213

(By Delegate M. Harman and Delegate J. Martin)

[Passed January 31, 1986; in effect from passage.]

AN ACT to amend article nine, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one-b; and to amend and reenact section six of said article nine, all relating to a presumption of death of persons not found nor heard from within six months and whose disappearance can reasonably be believed to have been caused by the flooding on or about the fourth day of November, one thousand nine hundred eighty-five; and issuance of death certificates upon entry of an order that a presumption of death has been established.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section one-b; and that section six of said article nine be amended and reenacted, all to read as follows:

ARTICLE 9. PRESUMED TO BE DEAD AND THEIR ESTATES.

§44-9-1b. When person in area proclaimed to be in a state of emergency presumed dead.

1 A person last seen at any site within the area proclaimed by the governor on the fifth day of November, one thousand nine hundred eighty-five, to be in a state of emergency as a result of the flooding in this state on or about the fourth day of November, one
thousand nine hundred eighty-five, whose body has not been found or identified within six months of the date last seen at such site, and who is unheard of by those who, had he been alive, would naturally have heard of him, and whose disappearance can reasonably be believed to have been caused by such flooding shall in any case where his death shall come in question be presumed in law to be dead, in the absence of proof to the contrary or unless proof be made that he was alive within that time.

§44-9-6. Order declaring presumption established; probate of will; letters testamentary or of administration; their effect; death certificate issued upon order.

If the commission is satisfied, upon the hearing or from the report of the fiduciary commissioner, that the legal presumption of death is established, the commission shall so declare by order, shall then proceed to hear, and to grant, if proper, the application for probate of the will of such supposed decedent, if such there be, and to grant letters testamentary or of administration, as the case may require, to the party entitled thereto, who shall qualify and give bonds as in cases of persons known to be dead. The probate of any such will and such letters, until revoked, and all acts done in pursuance thereof and in reliance thereupon, shall be as valid as if the supposed decedent were in fact dead.

Immediately upon the entry of such order declaring that the legal presumption of death is established, the commission shall direct the clerk thereof forthwith to make and deliver to the state registrar of vital statistics the order and such personal data and other information from the records of the proceedings as may enable the state registrar of vital statistics to issue a death certificate. Upon receipt of the order, personal data and other information, the registrar of vital statistics shall forthwith issue and deliver by mail unto the clerk of the county commission wherein such order was entered, a death certificate in the form prescribed by law, except that no medical certification shall be required. The clerk shall record such death certificate in the manner set
forth in section nineteen, article five, chapter sixteen of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 11th day of February, 1986.

Governor