

No: 2854

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

— ● —

# ENROLLED

HOUSE BILL No. 2854.....

(By Delegates *Humphreys and Garrett*)

— ● —

Passed *March 14,* 1987

In Effect *Ninety Days from* Passage

**ENROLLED**  
**H. B. 2854**

(By DELEGATES HUMPHREYS and GARRETT)

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[Passed March 14, 1987; in effect ninety days from passage.]

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AN ACT to amend and reenact section fourteen, article one, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appraisal of estates; disposition; authority of appraisers to act throughout the estate; certain annuity and investment contracts to be included on appraisal; and hiring of experts.

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

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

**ARTICLE 1. PERSONAL REPRESENTATIVES.**

**§44-1-14. Appraisal of estates in triplicate; disposition; authority of appraisers to act throughout the state; hiring of experts.**

1     The real and personal estate of every deceased person,  
2     or in which such deceased person had an interest at the  
3     time of his death, shall be appraised as follows: The  
4     commission by whose order any person is authorized to  
5     act as personal representative, or the fiduciary super-  
6     visor thereof, shall, upon the qualification of such  
7     personal representative and at the time thereof appoint  
8     not less than three nor more than five appraisers, any  
9     three of whom may act, in the county in which the will  
10    of the deceased is probated or administration is granted

11 upon his estate, and a like number in every other county  
12 in which there may be any real or personal estate of the  
13 deceased: *Provided*, That at the request of the personal  
14 representative, the appraisers appointed in the county  
15 in which the will of the deceased is probated or  
16 administration is granted upon his estate shall have the  
17 authority to act in any county in the state in which there  
18 may be any real or personal estate of the deceased and  
19 the commission or fiduciary supervisor shall so design-  
20 nate in the order of appointment, and, in such event, it  
21 shall be unnecessary to appoint appraisers in every  
22 other county in which there may be any real or personal  
23 estate of the deceased. Such appraisers, after first  
24 taking an oath for the purpose, shall list and appraise  
25 at its real and actual value all the real estate and all  
26 the tangible property of every description owned by the  
27 deceased at the time of his death including, but not  
28 limited, to all real estate and tangible property in which  
29 the decedent had an interest as joint tenant or otherwise  
30 or in which any beneficial interest passes to another  
31 person by reason of the death of such decedent whose  
32 estate is being so appraised and irrespective of whether  
33 such real estate or tangible property is subject to  
34 administration and located in each county or the  
35 counties, as the case may be, and they shall also list and  
36 appraise at its real and actual value all his intangible  
37 property of every description, including moneys, credits,  
38 investments, annuities, life insurance policies, (irrespec-  
39 tive of whether such policies are payable to named  
40 beneficiaries or in trust or otherwise), judgments and  
41 decrees for moneys, notes, bonds, accounts and all other  
42 evidences of debt, whether owing to him by persons or  
43 corporations in or out of the state, and the number and  
44 value, including both the par value, if any, and the  
45 actual value, of any shares of capital stock owned by him  
46 in any corporation, and every other item of intangible  
47 property of whatsoever nature or kind, including all  
48 intangible property in which the decedent had an  
49 interest as joint tenant or otherwise or in which any  
50 beneficial interest passes to another by reason of the  
51 death of such decedent, and irrespective of whether such  
52 intangible property is subject to administration and

53 whether located in this state or elsewhere. Any real  
54 estate or interest therein so appraised shall be identified  
55 with particularity and description, shall identify the  
56 source of title in the decedent and the location of such  
57 realty for purposes of real property ad valorem taxation.  
58 Such appraisers shall designate such intangible prop-  
59 erty as good, bad or doubtful as to them may appear to  
60 be correct, and by whom owing and when payable, and  
61 from what time such of them as are interest-bearing  
62 bear interest. Every note, bond or evidence of debt shall  
63 have endorsed thereon the word "appraised," under  
64 which each acting appraiser shall sign his name. No  
65 judgment shall be rendered by any of the courts of the  
66 state upon such note, bond or evidence of debt unless and  
67 until the same shall be first shown to have been listed  
68 by the appraisers. Any note, bond or evidence of debt  
69 which bears the endorsement by the appraisers, as  
70 above required, shall need no further proof that the  
71 same was listed. In addition to all other information  
72 required by law, the appraisal shall contain and  
73 include a questionnaire designed and formulated by the  
74 tax commissioner which is designed for the purpose of  
75 examining the personal representative to determine that  
76 he has made a thorough and proper search and inves-  
77 tigation as to the existence and value of each and every  
78 kind and specie of property required to be included  
79 within, and subject to appraisal by, the provisions  
80 of this or any other section of this code, which said  
81 questionnaire shall be completed and answered upon the  
82 oath or adjuration of each such appraiser and the  
83 personal representative or fiduciary.

84 The several appraisements, lists and questionnaire  
85 aforesaid shall be executed in triplicate and shall be  
86 signed by the appraisers who made the same, and be  
87 approved by the personal representative, and be  
88 forthwith returned to the fiduciary supervisor. Such  
89 supervisor shall inspect such appraisements, lists and  
90 questionnaire, see that the same are in proper form, and  
91 that all property, if any, suggested by the questionnaire  
92 is included within the appraisal, and, within ten  
93 days after they are received and approved by him,  
94 deliver two copies of the same to the clerk of the county

95 commission, who shall record the same, with the  
96 certificate of approval of the supervisor, and mail one  
97 copy of the same to the tax commissioner of West  
98 Virginia. The date of return of an appraisalment shall  
99 be entered by the clerk of the county commission in his  
100 record of fiduciaries. Every such appraisalment and list  
101 shall be prima facie evidence of the value of the property  
102 embraced therein, and that the personal estate em-  
103 braced therein which is subject to administration came  
104 to the hands of the personal representative. Such  
105 appraisers shall each receive a fee of not less than one  
106 dollar nor more than one hundred dollars per day, to be  
107 fixed by such supervisor in accordance with the amount  
108 of the estate and the work involved in making the  
109 appraisalment, and their actual expenses necessarily  
110 incurred in making such appraisalment, and such fees  
111 and expenses and the supervisor's approval thereof shall  
112 be noted in the fiduciary supervisor's certificate. No  
113 person shall be permitted by any means whatsoever to  
114 avoid the appraisalment and listing of his estate and of  
115 all property, real, tangible and intangible, of whatsoever  
116 nature and kind, in which a beneficial interest passes  
117 to another by reason of the death of the decedent and  
118 irrespective of whether such property is subject to  
119 administration as herein provided, nor shall his personal  
120 representative be permitted to do so. Any personal  
121 representative who fails, refuses or declines to comply  
122 with the provisions of this section shall be guilty of a  
123 misdemeanor, and, upon conviction thereof, shall be  
124 fined not less than twenty-five dollars nor more than five  
125 hundred dollars.

126 Every personal representative shall have authority to  
127 retain or hire the services of such expert or experts as  
128 may be deemed appropriate to assist and advise the  
129 appraisers in and about their duties in appropriately  
130 and accurately appraising all or any part of the assets  
131 or property to be appraised according to the provisions  
132 of this section. Such expert or experts so retained or  
133 hired shall be compensated a reasonable sum by the  
134 personal representative from the assets coming into his  
135 hands or of which he is embraced, which compensation  
136 and the reasonableness thereof shall be subject to review

137 and approval by the county commission, upon recom-  
138 mendation of the fiduciary supervisor.

*James H. Smith*  
*James H. Smith*

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

Bruce O. Williams  
Chairman Senate Committee

Lyle Satter  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Welles  
Clerk of the Senate

Donald L. Kopp  
Clerk of the House of Delegates

Don Toussaint  
President of the Senate

Robert Clark  
Speaker of the House of Delegates

The within approved this the 2nd  
day of April, 1987.

Arthur A. Shaffer  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/57

Time 2:43 p.m.