

No: 115

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



ENROLLED

Committee Substitute for
SENATE BILL NO. 115

(By Senator *Tomcosich, Mr. President*)



PASSED *February 22,* 1988

In Effect *ninety days from* Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 115

(By SENATOR TONKOVICH, MR. PRESIDENT, *original sponsor*)

[Passed February 22, 1988; in effect ninety days from passage.]

AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-five, relating to resident trustee accounts for residents of certain state institutions; requiring reports and a management accounting system; declaring money not part of the state fund and making such money a claim against the state.

Be it enacted by the Legislature of West Virginia:

That chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-five, to read as follows:

ARTICLE 25. RESIDENT TRUSTEE ACCOUNTS.

§5-25-1. Resident trustee accounts required, reports.

- 1 All state institutions including, but not limited to, those
- 2 institutions under the control of the department of veterans
- 3 affairs, the department of health, or the department of
- 4 human services which provide custodial care for any person
- 5 for any purpose whatsoever shall establish resident trustee

6 accounts for all persons resident at the institution who
7 request such accounts or who are unable to manage their
8 own funds. The administrator in charge of the institution
9 shall take possession of all money or other valuables on the
10 person of or sent to each resident for whom a trustee
11 account has been established: *Provided*, That this article
12 shall not apply to state institutions under the control of the
13 department of corrections or where there is a legal
14 representative appointed for such person.

15 The administrator shall credit such money and valuables
16 to the resident entitled thereto and shall keep an accurate
17 record of all moneys and valuables received or disbursed.
18 This account is subject to examination by the head of the
19 department which controls the institution. The
20 administrator shall deposit such fiduciary funds received
21 with the state board of investments, except for those funds
22 required to be kept locally. The local funds shall be
23 deposited in one or more responsible banks. The accounts
24 shall be designated "resident trustee account."

25 The administrator shall ensure that proper
26 disbursements are made from the "resident trustee
27 account" when required for the maintenance of the resident
28 or when agreed to by the resident.

29 The administrator shall deliver to the resident, or to the
30 resident's responsible representative payee when
31 applicable, at the time the resident leaves the institution all
32 valuables or moneys then credited to the resident or, in the
33 case of the death of a resident before leaving the institution,
34 the administrator shall deliver such property to the
35 resident's representative.

36 The administrator of the institution shall submit a
37 monthly report to the head of the department controlling
38 the institution. This report shall provide a reconciliation of
39 each resident trustee account or other fiduciary account
40 maintained by the institution.

41 The director of any department who receives these
42 monthly reports shall submit each month to the legislative
43 auditor a record of the reconciliations for each institution.

§5-25-2. Management accounting system required.

- 1 (a) The commissioner of finance and administration
- 2 shall within ninety days after this article initially goes into
- 3 effect develop a system of management accounting for all

4 bank accounts held by each state institution where funds
5 are held in a fiduciary capacity for residents of the
6 institution. The management accounting system shall
7 include a method of internal management accounting
8 control for funds held in a fiduciary capacity for residents
9 of public institutions.

10 (b) The commissioner of finance and administration
11 shall deliver proper instructions for instituting the system
12 of management accounting to the heads of all departments
13 which control state institutions where funds are held in a
14 fiduciary capacity for residents. The department heads
15 shall institute the system of management accounting at
16 each institution under their control.

§5-25-3. Money not part of state fund.

1 Money held in a fiduciary capacity for residents in state
2 institutions in resident trustee accounts shall not be
3 credited to the state fund nor treated by the state auditor or
4 state treasurer as part of the general revenue fund of the
5 state.

§5-25-4. Resident trustee accounts claim against the state.

1 Any money held in a resident trustee account in any state
2 institution which is in any manner misappropriated from
3 that account may be recovered by the resident or the
4 resident's legal representative under the provisions of
5 article two, chapter fourteen of this code and such money is
6 hereby specifically made a claim against the state for the
7 purposes of such article.

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

Robert O. Williams
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Judd C. Steich
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Ann Tomblin
President of the Senate

Robert C. Bell
Speaker House of Delegates

The within *approved* this the *1st*
March
day of 1988.

Arthur A. Burch Jr
Governor

PRESENTED TO THE
GOVERNOR

Date 2/24/88

Time 10:36 a.m.

RECEIVED

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OFFICE OF THE SECRETARY OF STATE