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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992

— ● —

# ENROLLED

HOUSE BILL No. 4760

(By Delegates Lane and Douglas )

— ● —

Passed March 6, 1992

In Effect Ninety Days From Passage

**ENROLLED**  
**H. B. 4760**

(By DELEGATES LANE AND DOUGLAS)

*cl*  
*hmt*

[Passed March 6, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact sections eight, nine, ten and eleven, article three, chapter forty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to testamentary additions to trusts; and the uniform testamentary additions to trusts act.

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

That sections eight, nine, ten and eleven, article three, chapter forty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

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

**§41-3-8. Testamentary additions to trusts.**

- 1 (a) A will may validly devise or bequeath property to
- 2 the trustee of a trust established or to be established:
- 3 (i) During the testator's lifetime by the testator, by the
- 4 testator and some other person, or by some other person
- 5 including a funded or unfunded life insurance trust,
- 6 although the trustor has reserved any or all rights of
- 7 ownership of the insurance contracts; or (ii) at the
- 8 testator's death by the testator's devise to the trustee, if
- 9 the trust is identified in the testator's will and its terms
- 10 are set forth in a written instrument, other than a will,
- 11 executed before or concurrently with the execution of
- 12 the testator's will or in another individual's will if that
- 13 other individual has predeceased the testator, regardless

14 of the existence, size, or character of the corpus of the  
15 trust. The devise or bequest is not invalid because the  
16 trust is amendable or revocable, or because the trust  
17 was amended after the execution of the will or the  
18 testator's death.

19 (b) Unless the testator's will provides otherwise,  
20 property devised or bequeathed to a trust described in  
21 subsection (a) is not held under a testamentary trust of  
22 the testator but it becomes a part of the trust to which  
23 it is devised or bequeathed, and must be administered  
24 and disposed of in accordance with the provisions of the  
25 governing instrument setting forth the terms of the  
26 trust, including any amendments thereto made before or  
27 after the testator's death.

28 (c) Unless the testator's will provides otherwise, a  
29 revocation or termination of the trust before the  
30 testator's death causes the devise or bequest to lapse.

**§41-3-9. Effect on existing wills.**

1 Sections eight, nine, ten and eleven of this article  
2 apply to a will of a testator who dies after the effective  
3 date of this legislation.

**§41-3-10. Uniformity of application and construction.**

1 Sections eight through eleven of this article shall be  
2 applied and construed to effectuate its general purpose  
3 to make uniform the law with respect to the subject of  
4 this legislation among states enacting it.

**§41-3-11. Short title.**

1 Sections eight through eleven of this article may be  
2 cited as the Uniform Testamentary Additions to Trusts-  
3 Uniform Act (1991).

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

*Lomer Leck*

Chairman Senate Committee

*Ernest C Moore*

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*David A. Adams*  
Clerk of the Senate

*Donald J. Kopp*

Clerk of the House of Delegates

*Keith Brudette*  
President of the Senate

*John A. Coker*  
Speaker of the House of Delegates

The within *is appended* this the *30<sup>th</sup>*  
day of *March*, 1992.

*Yastin Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/92

Time 4:40 pm

*goc*