

33 00 24

filed by JUS
4 pm 3/20/95
M4

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

SENATE BILL NO. 24

(By Senator WOOTEN, ET AL)



PASSED MARCH 9, 1995

In Effect 90 days from Passage

ENROLLED

Senate Bill No. 24

(BY SENATORS WOOTON, ANDERSON, BOWMAN, BUCKALEW,
DEEM, DITTMAR, GRUBB, MILLER, OLIVERIO, ROSS,
SCHOONOVER, SCOTT, WHITE AND YODER)

[Passed March 9, 1995; in effect ninety days from passage.]

AN ACT to amend article five-a, 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 four, relating to the termination of trusts in certain circumstances.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5A. POWERS OF FIDUCIARIES.

§44-5A-4. Termination of trusts valued at less than fifty thousand dollars; spendthrift and other protective trusts for incompetents and children.

- 1 (a) Upon application of a trustee of a trust with assets
- 2 valued at less than fifty thousand dollars, the principal
- 3 of which is not distributable until some future time, a

4 circuit court having in rem jurisdiction over the corpus
5 of the trust may order that the trust be terminated upon
6 a finding that the continued existence of the trust is no
7 longer economically beneficial or practical because,
8 relative to the costs of administering the trust or because
9 of an existing economic circumstance that directly
10 threatens the solvency, financial integrity or monetary
11 value of such trust, continuance of the trust pursuant to
12 its existing terms will defeat or substantially impair the
13 accomplishment of its purposes.

14 (b) Notwithstanding the provisions of subsection (a) of
15 this section to the contrary, the court may not, pursuant
16 to said subsection, order the termination of a spendthrift
17 or other protective trust which exists for the benefit of
18 one or more incompetents or minors in the absence of the
19 court's further finding that there exists or will exist
20 upon the termination of such trust an adequate
21 alternative protective device or provision for the
22 management of the trust assets and protection of the
23 primary beneficiary or beneficiaries for whom the trust
24 was created.

25 (c) Upon the entry of an order that the trust be
26 terminated pursuant to the provisions of this section, the
27 trustee shall, at least fourteen days prior to the date
28 upon which the trustee proposes to terminate the trust,
29 file with the court such accounting of the activities and
30 assets of the trust as may be directed by the court and
31 serve a copy thereof upon the parties to the action and
32 such other persons that may be affected by the
33 termination of the trust. Upon the court's review of the
34 accounting, the court may enter an order approving the
35 accounting and the terms of the termination of the trust
36 proposed by the trustee or may enter such other order as
37 the court may deem appropriate in the action.

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

Randy Schoonover
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Karrell Robinson
.....
Clerk of the Senate

Donald L. Jeff
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Bill Blanton
.....
Speaker House of Delegates

The within is approved this the 17th
day of March, 1995.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/16/95

Time 10:30 am