WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED

SENATE BILL NO. 24

(By Senator [Signature]

PASSED March 9, 1995
In Effect 90 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.

(a) Upon application of a trustee of a trust with assets valued at less than fifty thousand dollars, the principal of which is not distributable until some future time, a
circuit court having in rem jurisdiction over the corpus
of the trust may order that the trust be terminated upon
a finding that the continued existence of the trust is no
longer economically beneficial or practical because,
relative to the costs of administering the trust or because
of an existing economic circumstance that directly
threatens the solvency, financial integrity or monetary
value of such trust, continuance of the trust pursuant to
its existing terms will defeat or substantially impair the
accomplishment of its purposes.

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

(c) Upon the entry of an order that the trust be
terminated pursuant to the provisions of this section, the
trustee shall, at least fourteen days prior to the date
upon which the trustee proposes to terminate the trust,
file with the court such accounting of the activities and
assets of the trust as may be directed by the court and
serve a copy thereof upon the parties to the action and
such other persons that may be affected by the
termination of the trust. Upon the court's review of the
accounting, the court may enter an order approving the
accounting and the terms of the termination of the trust
proposed by the trustee or may enter such other order as
the court may deem appropriate in the action.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Skoore
Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Rassemble
Clerk of the Senate

Donald L. Jeff
Clerk of the House of Delegates

Earl Ray Tomlinson
President of the Senate

Speaker House of Delegates

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

Governor