

HL 274 GS

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



## ENROLLED

SENATE BILL NO. 274

(By Senator WOOTON, ET AL)



PASSED MARCH 7, 1996

In Effect NINETY DAYS FROM Passage

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OFFICE OF THE CLERK  
SENATE, WEST VIRGINIA

## ENROLLED

### Senate Bill No. 274

(BY SENATORS WOOTON, ANDERSON, BOWMAN, BUCKALEW,  
DEEM, DITTMAR, GRUBB, MILLER, ROSS, SCOTT, WAGNER,  
WIEDEBUSCH AND YODER)

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[Passed March 7, 1996; in effect ninety days from passage.]

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AN ACT to amend article six, 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 two-a, relating to clarifying the duties of the trustee of an irrevocable life insurance trust.

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

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

**ARTICLE 6. INVESTMENTS BY FIDUCIARIES.**

**§44-6-2a. Duties of the trustee of an irrevocable life insurance trust.**

- 1 (a) Unless otherwise directed by the terms of the trust
- 2 instrument, the duties of a trustee of an irrevocable life

3 insurance trust with respect to acquiring or retaining a  
4 contract of insurance upon the life of the settlor, or the  
5 lives of the settlor and the settlor's spouse, do not  
6 include a duty: (i) To determine whether any such  
7 contract is or remains a proper investment; (ii) to exer-  
8 cise policy options available under any such contract in  
9 the event the policy lapses or is terminated due to failure  
10 to pay premiums; or (iii) to diversify any such contract.  
11 A trustee is not liable to the beneficiaries of the trust or  
12 to any other party for any loss arising from the absence  
13 of those duties upon the trustee.

14 (b) The trustee of a trust described under subsection (a)  
15 of this section which was established prior to the effec-  
16 tive date of this section, shall notify the settlor in writing  
17 that, unless the settlor provides written notice to the  
18 contrary to the trustee within sixty days of the trustee's  
19 notice, the provisions of subsection (a) of this section  
20 shall apply to the trust. Subsection (a) of this section  
21 shall not apply if, within sixty days of the trustee's  
22 notice, the settlor notifies the trustee that subsection (a)  
23 does not apply.

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

*Randy Schoonover*

Chairman Senate Committee

*Randy Seant*  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Carroll*  
Clerk of the Senate

*Gregory*  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
President of the Senate

*Paul*  
Speaker House of Delegates

The within *is approved* this the *25<sup>th</sup>*  
day of *March*, 1996.

*Gaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/96

Time 3:59 pm