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# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



# ENROLLED

## House Bill No. 4311

(By Mr. Speaker, Mr. Kiss, and Delegates Jenkins,  
Staton, Varner, Trump and Dalton.)



Passed March 14, 1998

In Effect Ninety Days from Passage

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LEGISLATIVE DEPARTMENT  
STATE OF WEST VIRGINIA

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**

**H. B. 4311**

(BY MR. SPEAKER, MR. KISS, AND DELEGATES  
JENKINS, STATON, VARNER, TRUMP AND DALTON)

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[Passed March 14, 1998; in effect ninety days from passage.]

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AN ACT to amend and reenact section fourteen, article one, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appraisement of a decedent's estate; and establishing a ninety-day time period for filing an appraisement of a decedent's estate.

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

That section fourteen, article one, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 1. PERSONAL REPRESENTATIVES.**

**§44-1-14. Appraisal of estates in triplicate; disposition; authority of appraisers to act throughout the state; hiring of experts.**

- 1 The real and personal estate of every deceased person,
- 2 or in which such deceased person had an interest at the
- 3 time of his or her death, shall be appraised by the personal
- 4 representative of such deceased person. Such personal

5 representative, after first taking an oath for the purpose,  
6 shall list and appraise at its real and actual value all the real  
7 estate and all the tangible property of every description  
8 owned by the deceased at the time of his or her death,  
9 including, but not limited to, all real estate and tangible  
10 property in which the decedent had an interest as joint  
11 tenant or otherwise or in which any beneficial interest  
12 passes to another person by reason of the death of such  
13 decedent whose estate is being so appraised and  
14 irrespective of whether such real estate or tangible  
15 property is subject to administration and located in each  
16 county or the counties, as the case may be. The personal  
17 representative shall also list and appraise at its real and  
18 actual value all of the decedent's intangible property of  
19 every description, including moneys, credits, investments,  
20 annuities, life insurance policies, (irrespective of whether  
21 such policies are payable to named beneficiaries or in trust  
22 or otherwise), judgments and decrees for moneys, notes,  
23 bonds, accounts and all other evidences of debt, whether  
24 owing to him or her by persons or corporations in or out  
25 of the state, and the number and value, including both the  
26 par value, if any, and the actual value, of any shares of  
27 capital stock owned by the decedent in any corporation,  
28 and every other item of intangible property of whatsoever  
29 nature or kind, including all intangible property in which  
30 the decedent had an interest as joint tenant or otherwise or  
31 in which any beneficial interest passes to another by  
32 reason of the death of such decedent, and irrespective of  
33 whether such intangible property is subject to  
34 administration and whether located in this state or  
35 elsewhere. Any real estate or interest therein so appraised  
36 shall be identified with particularity and description, shall  
37 identify the source of title in the decedent and the location  
38 of such realty for purposes of real property ad valorem  
39 taxation. In addition to all other information required by  
40 law, the appraisement shall contain and include a  
41 questionnaire designed and formulated by the tax  
42 commissioner which is designed for the purpose of  
43 examining the personal representative to determine that he  
44 or she has made a thorough and proper search and  
45 investigation as to the existence and value of each and  
46 every kind and species of property required to be

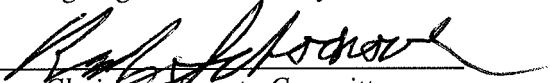
47 included within, and subject to appraisalment by, the  
48 provisions of this or any other section of this code, which  
49 said questionnaire shall be completed and answered upon  
50 the oath or adjuration of the personal representative or  
51 fiduciary.

52 The appraisalment, list and questionnaire aforesaid  
53 shall be executed in triplicate and shall be signed by the  
54 personal representative and be returned to the clerk of the  
55 county commission by whom such personal representative  
56 was appointed or to the fiduciary supervisor within ninety  
57 days of the date of qualification of the personal  
58 representative. Such clerk or supervisor shall inspect such  
59 appraisalment, list and questionnaire, see that the same are  
60 in proper form, and that all property, if any, suggested by  
61 the questionnaire is included within the appraisalment. If  
62 such appraisalment, list and questionnaire are returned to a  
63 fiduciary supervisor within ten days after they are received  
64 and approved by him or her, such supervisor shall deliver  
65 two copies of the same to the clerk of the county  
66 commission. Upon receipt of the appraisalment, list and  
67 questionnaire, the clerk of the county commission shall  
68 record the same, with the certificate of approval of the  
69 supervisor, and mail one copy of the same to the tax  
70 commissioner of West Virginia. The date of return of an  
71 appraisalment shall be entered by the clerk of the county  
72 commission in his or her record of fiduciaries. Every  
73 such appraisalment and list shall be prima facie evidence of  
74 the value of the property embraced therein, and that the  
75 personal estate embraced therein which is subject to  
76 administration came to the hands of the personal  
77 representative. No person shall be permitted by any  
78 means whatsoever to avoid the appraisalment and listing of  
79 his or her estate and of all property, real, tangible and  
80 intangible, of whatsoever nature and kind, in which a  
81 beneficial interest passes to another by reason of the death  
82 of the decedent and irrespective of whether such property  
83 is subject to administration as herein provided, nor shall  
84 his or her personal representative be permitted to do so.  
85 Any personal representative who fails, refuses or declines  
86 to comply with the provisions of this section shall be  
87 guilty of a misdemeanor and, upon conviction thereof,

88 shall be fined not less than twenty-five dollars nor more  
89 than five hundred dollars.

90       Every personal representative shall have authority to  
91 retain or hire the services of such expert or experts as may  
92 be deemed appropriate to assist and advise him or her in  
93 and about his or her duties in appropriately and accurately  
94 appraising all or any part of the assets or property to be  
95 appraised according to the provisions of this section.  
96 Such expert or experts so retained or hired shall be  
97 compensated a reasonable sum by the personal  
98 representative from the assets coming into his or her hands  
99 or of which he or she is embraced, which compensation  
100 and the reasonableness thereof shall be subject to review  
101 and approval by the county commission, upon  
102 recommendation of the fiduciary supervisor.

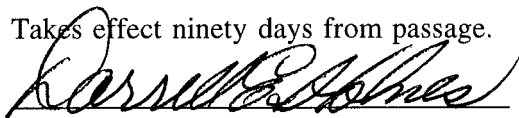
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

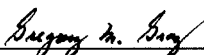
  
Chairman Senate Committee

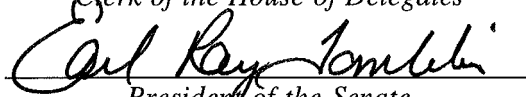
  
Chairman House Committee


Originating in the House.

Takes effect ninety days from passage.

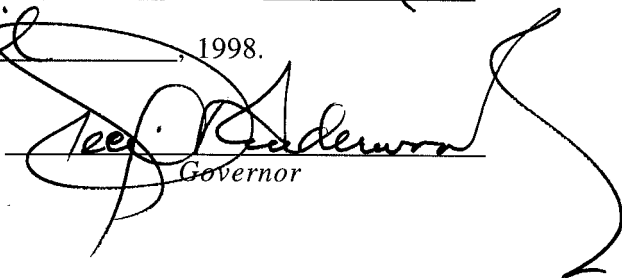
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within approved this the 7th  
day of April, 1998.

  
Governor

PRESENTED TO THE

GOVERNOR

Date, 3/31/98

Time 2:40 p.m.