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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

House Bill No. 4309

(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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COMMITTEE SUBSTITUTE

FOR

H. B. 4309

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

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

AN ACT to amend and reenact section eighteen, article one, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article five, chapter forty-four of said code by adding thereto a new section, designated section fifteen, all relating to the nonmerger of trusts; providing that trust estates are subject to the debts of the beneficiaries; permitting spendthrift trusts; and preventing the merger of trusts in which the trustee is also a beneficiary of the trust.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 36. ESTATES AND PROPERTY.

ARTICLE 1. CREATION OF ESTATES GENERALLY.

§36-1-18. Trust estates; debts of beneficiaries; spendthrift trusts; nonmerger of trusts.

1 Estates of every kind in real or personal property,
2 holden or possessed in trust, shall be subject to the debts
3 and charges of the persons to whose use or for whose
4 benefit they are holden or possessed, as they would be if
5 those persons owned the like interest in the things holden
6 or possessed, as in the uses or trusts thereof; but where the
7 creator of the trust has expressly so provided in the
8 instrument or conveyance creating the trust, real or
9 personal property may be held in trust upon condition
10 that the income therefrom shall be applied by the trustee
11 to the support and maintenance of a beneficiary or
12 beneficiaries of the trust in being at the time of the
13 creation of the trust, other than the creator of the trust, for
14 the life of such beneficiary or beneficiaries, without being
15 subject to the liabilities of, or alienation by, such
16 beneficiary or beneficiaries: *Provided*, That no trust,
17 whenever executed or created, may be deemed to be
18 invalid or terminated, and title to trust assets may not be
19 merged, merely because a creditor asserts that the trustee
20 or trustees are the same person or persons as the
21 beneficiaries of the trust.

**CHAPTER 44. ADMINISTRATION OF
ESTATES AND TRUSTS.**

ARTICLE 5. GENERAL PROVISIONS AS TO FIDUCIARIES.

§44-5-15. Nonmerger of trusts.

1 (a) No trust is invalid or terminated, and title to trust
2 assets is not merged, because the trustee or trustees are the
3 same person or persons as the beneficiaries of the trust.

4 (b) This section applies to all trusts whenever executed
5 or created.

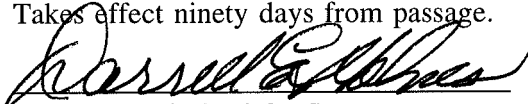
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

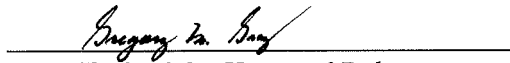

Chairman Senate Committee

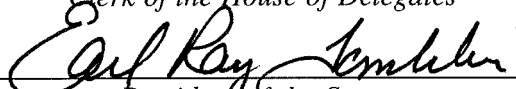

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

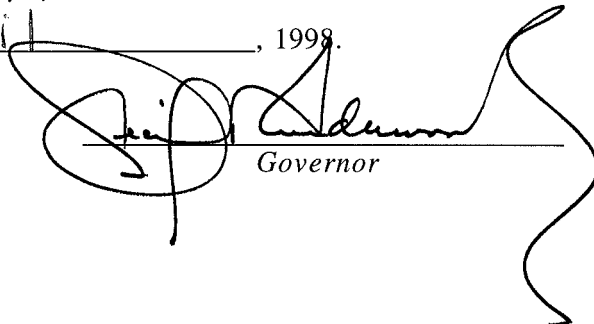

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 1st
day of April, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/98

Time 2:38 pm