

FILED

2005 MAY -4 P 4: 16

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
*Regular Session, 2005*

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**ENROLLED**

*Committee Substitute for*  
**SENATE BILL NO. 424**

(By Senators Unger and Uoder )

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**PASSED April 8, 2005**

**In Effect 90 days from Passage**

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COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 424**

(SENATORS UNGER AND YODER, *original sponsors*)

[Passed April 8, 2005; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §44-1-29, relating to the authority of personal representatives with regard to conservation or preservation easements; and providing that a personal representative, trustee, administrator or executor may sell, donate or amend conservation or preservation easements under certain conditions.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §44-1-29, to read as follow:

**ARTICLE 1. PERSONAL REPRESENTATIVES.**

**§44-1-29. Authority of personal representative concerning conservation and preservation easements.**

1 (a) A personal representative, trustee, administrator or  
2 executor of a decedent or a decedent's estate is hereby  
3 granted the authority to:

4 (1) Sell a conservation or preservation easement created  
5 prior to the decedent's death under article twelve, chapter  
6 eight-a of this code or article twelve, chapter twenty of  
7 this code;

8 (2) Donate a conservation or preservation easement  
9 created prior to the decedent's death under article twelve,  
10 chapter eight-a of this code or article twelve, chapter  
11 twenty of this code;

12 (3) Amend a conservation or preservation easement  
13 created prior to the decedent's death under article twelve,  
14 chapter eight-a of this code or article twelve, chapter  
15 twenty of this code and recorded on the decedent's real  
16 property in order to obtain the benefit of the estate tax  
17 exclusion allowed under §2031(c) of the United States  
18 Internal Revenue Code of 1986, as amended;

19 (4) Execute a deed of conservation or preservation  
20 easement and related documents when decedent's applica-  
21 tion to establish and convey an easement was approved by  
22 a holder during the nine-month period preceding the date  
23 of decedent's death, but the deed of conservation or  
24 preservation easement and related documents were not  
25 signed by the decedent before his or her death: *Provided*,  
26 That before executing these documents, the personal  
27 representative, trustee or executor complies with the  
28 provisions of subsection (b) of this section; or

29 (5) Execute a deed of conservation or preservation  
30 easement and related documents when decedent's applica-  
31 tion to establish and convey an easement was submitted to  
32 a holder before decedent's death but is approved by a  
33 holder after the decedent's death: *Provided*, That before  
34 executing these documents, the personal representative;

35 trustee, administrator or executor complies with the  
36 provisions of subsection (b) of this section.

37 (b) The personal representative, trustee, administrator or  
38 executor shall ensure that the sale, donation, amendment  
39 or transfer of a conservation or preservation easement  
40 complies with the following:

41 (1) The proposed sale, donation, transfer or amendment  
42 satisfies the requirements set forth in the provisions of  
43 article twelve, chapter eight-a of this code or article  
44 twelve, chapter twenty of this code, as applicable to the  
45 particular easement;

46 (2) The proposed sale, donation, transfer or amendment  
47 is to a qualified conservation organization or holder and  
48 the organization or holder agrees to accept the conserva-  
49 tion or preservation easement; and

50 (3) The sale, donation, transfer or amendment meets one  
51 of the following conditions:

52 (A) All heirs, beneficiaries and devisees with interests in  
53 the real estate affected provide written consent; or

54 (B) The will or other testamentary instrument directs the  
55 personal representative, trustee or executor to sell or  
56 donate the conservation or preservation easement; or

57 (C) At the time of the decedent's death, the decedent had  
58 a pending application for a sale or donation of a conserva-  
59 tion or preservation easement and such conservation or  
60 preservation easement was in process of settlement.

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

*Charley Whit*  
.....  
Chairman Senate Committee

*Orlando B...*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Darrell Hobbs*  
.....  
Clerk of the Senate

*George D. Bond*  
.....  
Clerk of the House of Delegates

*Carl Roy Tompkins*  
.....  
President of the Senate

*Robert H...*  
.....  
Speaker House of Delegates

The within-*is approved*..... this the *4<sup>th</sup>*  
Day of *May*....., 2005.

*Paul W. Henshaw*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 20 2005

Time 2:50 pm