WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

ENROLLED

House Bill No. 3270

(By Delegates Webster and Amores)

Passed March 10, 2007

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 §44-4-12a, relating to the compensation and expenses of fiduciaries.

Passed March 10, 2007; in effect ninety days from passage.

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 §44-4-12a, to read as follows:

ARTICLE 4. ACCOUNTING BY FIDUCIARIES.

§44-4-12a. Compensation and expenses of personal representatives.

1. (a) Personal representatives, as defined in section one, article one, chapter forty-two of this code, shall be allowed any reasonable expenses incurred by the personal
representative as such and commissions upon the amount of 
all the personal estate which is subject to administration, 
including the income from the personal estate, that is 
received and accounted for by them and upon the proceeds of 
real estate that is sold, as follows:

(1) For the first one hundred thousand dollars, at the 
rate of five percent;

(2) All above one hundred thousand dollars and not 
exceeding four hundred thousand dollars, at the rate of four 
percent;

(3) All above four hundred thousand dollars and not 
exceeding eight hundred thousand dollars, at the rate of three 
per cent; and

(4) All above eight hundred thousand dollars, at the 
rate of two percent.

(b) Personal representatives also shall be allowed a 
commission of one percent on the value of real estate that is 
ot sold. Personal representatives also shall be allowed a 
commission of one percent on all property that is not subject 
to administration and that is includable for purposes of 
computing the federal estate tax. Notwithstanding the 
foregoing, no commission shall be allowed on joint and 
survivorship property, whether real or personal.

(c) The basis of valuation for the allowance of such 
commissions on real estate sold shall be the gross proceeds 
of sale, and for all other property the fair market value of the 
other property as of the date of death of the decedent. The 
commissions allowed to personal representatives in this 
section shall be received in full compensation for all of their 
ordinary services. If more that one personal representative 
serves, the total compensation as set for herein shall be 
apportioned between them as agreed upon by the personal 
representatives, or the in the absence of an agreement 
between the personal representatives, in proportion to the 
services performed by them.
(d) The commission set forth herein may be denied or reduced by the county commission upon a determination that the personal representative has not faithfully discharged the personal representative's duties. The commission set forth herein may be increased by the county commission upon a determination that the personal representative has performed extraordinary services in discharging the personal representative's duties.

(e) Where the personal representative of an estate is a lawyer who renders professional services, compensation for such professional services in addition to a commission shall not be allowed.

(f) Notwithstanding the foregoing, a testator may deviate from the commissions allowed herein by express language in the testator's last will and testament.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 3rd day of April, 2007.

Governor
PRESENTED TO THE GOVERNOR

MAR 26 2007

Time 4:10 pm