

HB 3270 5

FILED

2007 APR -3 PM 4: 25

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

FILED

ENROLLED

2007 APR -3 PM 4: 25

H. B. 3270

OFFICE WEST VIRGINIA
SECRETARY OF STATE

(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.

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,
- 2 article one, chapter forty-two of this code, shall be allowed
- 3 any reasonable expenses incurred by the personal

4 representative as such and commissions upon the amount of
5 all the personal estate which is subject to administration,
6 including the income from the personal estate, that is
7 received and accounted for by them and upon the proceeds of
8 real estate that is sold, as follows:

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

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

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

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

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

27 (c) The basis of valuation for the allowance of such
28 commissions on real estate sold shall be the gross proceeds
29 of sale, and for all other property the fair market value of the
30 other property as of the date of death of the decedent. The
31 commissions allowed to personal representatives in this
32 section shall be received in full compensation for all of their
33 ordinary services. If more than one personal representative
34 serves, the total compensation as set for herein shall be
35 apportioned between them as agreed upon by the personal
36 representatives, or in the absence of an agreement
37 between the personal representatives, in proportion to the
38 services performed by them.

39 (d) The commission set forth herein may be denied or
40 reduced by the county commission upon a determination that
41 the personal representative has not faithfully discharged the
42 personal representative's duties. The commission set forth
43 herein may be increased by the county commission upon a
44 determination that the personal representative has performed
45 extraordinary services in discharging the personal
46 representative's duties.

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

51 (f) Notwithstanding the foregoing, a testator may deviate
52 from the commissions allowed herein by express language in
53 the testator's last will and testament.

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



Chairman Senate Committee



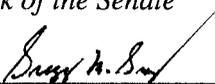
Chairman House Committee

Originating in the House.

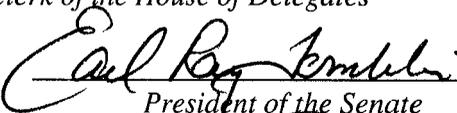
In effect ninety days from passage.



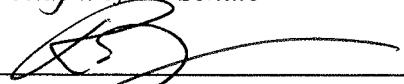
Clerk of the Senate



Clerk of the House of Delegates

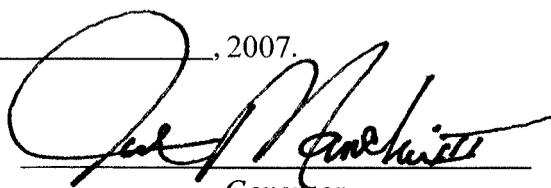


President of the Senate



Speaker of the House of Delegates

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



Governor

PRESENTED TO THE
GOVERNOR

MAR 26 2007

Time 4:10 pm