

SB 494

FILED

2010 MAR 24 PM 4: 52

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-NINTH LEGISLATURE**  
**REGULAR SESSION, 2010**

THE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 494**

(SENATORS KESSLER AND CHAFIN, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

FILED

2010 MAR 24 PM 4: 52

OFFICE OF THE CLERK  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 494**

(SENATORS KESSLER AND CHAFIN, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §44-3-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §44-3A-35 of said code; and to amend said code by adding thereto a new section, designated §51-10A-6; all relating to fiduciary matters; updating references from the commissioner of accounts to the fiduciary commissioner; requiring fiduciary commissioner to file status reports and settle accounts of certain cases with county clerks; requiring county clerks to file the status report with county commissions; and prohibiting bail bonding companies or bail bond enforcers from providing fiduciary bonds unless licenced by the Insurance Commissioner.

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

That §44-3-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §44-3A-35 of said code be amended and reenacted, and that said code be amended

by adding thereto a new section, designated §51-10A-6, all to read as follows:

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

**§44-3-1. Fiduciary commissioners.**

1 The office previously known as commissioner of ac-  
2 counts is hereby abolished. The office of fiduciary com-  
3 missioner is hereby created and any reference in this code  
4 to a commissioner of accounts shall, after the effective  
5 date of this section, mean fiduciary commissioner.  
6 Fiduciary commissioners shall be attorneys admitted to  
7 the practice of law in this state, or shall meet the qualifi-  
8 cations of fiduciary supervisors as set forth in article  
9 three-a of this chapter: *Provided*, That persons who are  
10 serving as commissioners of accounts upon the effective  
11 date of this article shall be continued in office as fiduciary  
12 commissioners for not more than one year from the  
13 effective date of this article for the purpose of settling  
14 estates not settled on the effective date of this article.

15 The county commission of each county shall appoint not  
16 more than four fiduciary commissioners. In counties in  
17 which there exists a separate tribunal for police and fiscal  
18 purposes, that tribunal shall appoint the fiduciary com-  
19 missioners. In either case, not more than two of the  
20 fiduciary commissioners may be from the same political  
21 party.

22 The fiduciary commissioner shall report to and settle  
23 accounts with the county clerk. On or before the last day  
24 of March, June, September and December, the fiduciary  
25 commissioner shall file with the county clerk a report on  
26 the status and disposition of every active case referred to  
27 the fiduciary commissioner. In the next succeeding term  
28 of the county commission, the county clerk shall provide

29 a copy of the report to the county commission, and shall  
30 inform the county commission of any cases referred to a  
31 fiduciary commissioner in which the fiduciary commis-  
32 sioner has not fulfilled duties relating to the case in  
33 accordance with deadlines established by law. The county  
34 commission shall take appropriate action to ensure that  
35 all deadlines established by law will be observed, includ-  
36 ing, if necessary, the removal of fiduciary commissioners  
37 who consistently fail to meet such deadlines.

**ARTICLE 3A. OPTIONAL PROCEDURE FOR PROOF AND ALLOWANCE OF  
CLAIMS AGAINST ESTATES OF DECEDENTS; COUNTY  
OPTION.**

**§44-3A-35. Fiduciary commissioners.**

1 The county commission of each county shall appoint not  
2 more than four fiduciary commissioners, except that in  
3 counties in which there exists a separate tribunal for  
4 police and fiscal purposes, such tribunal shall appoint  
5 such commissioners: *Provided*, That the county commis-  
6 sion or such separate tribunal shall avoid reference of  
7 estates to such commissioners, unless such reference is  
8 necessary.

9 The fiduciary commissioner shall report to and settle  
10 accounts with the county clerk. On or before the last day  
11 of March, June, September and December, the fiduciary  
12 commissioner shall file with the county clerk a report on  
13 the status and disposition of every active case referred to  
14 the fiduciary commissioner. In the next succeeding term  
15 of the county commission, the county clerk shall provide  
16 a copy of the report to the county commission, and shall  
17 inform the county commission of any cases referred to a  
18 fiduciary commissioner in which the fiduciary commis-  
19 sioner has not fulfilled duties relating to the case in  
20 accordance with deadlines established by law. The county  
21 commission shall take appropriate action to ensure that

22 all deadlines established by law will be observed, includ-  
23 ing, if necessary, the removal of fiduciary commissioners  
24 who consistently fail to meet such deadlines.

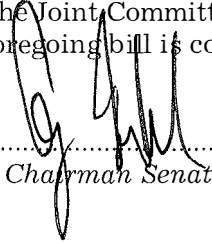
## **CHAPTER 51. COURTS & THEIR OFFICERS**

### **ARTICLE 10A. BAIL BOND ENFORCERS.**

#### **§51-10A-6. Prohibition against providing fiduciary bonds in estates; exception.**

1 A bail bonding company or a bail bond enforcer may not  
2 provide fiduciary bonds for an estate unless the bail  
3 bonding company or bail bond enforcer is licensed with  
4 the Insurance Commissioner to act as an agent for an  
5 insurance company that provides surety or fiduciary  
6 bonds.


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

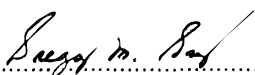
  
.....  
Chairman Senate Committee

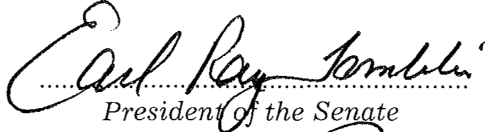
  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within *is appended* ..... this the *24<sup>th</sup>*  
Day of *March* ....., 2010.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 23 2010

Time 11:40am