Enrolled

Committee Substitute for

Senate Bill 195

SENIOR SYPOLT, original sponsor

[Passed March 6, 2020; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 195

SENATOR SYPOLT, original sponsor

[Passed March 6, 2020; in effect 90 days from passage]
AN ACT to amend and reenact §44-1-29 of the Code of West Virginia, 1931, as amended, relating to authorization for a personal representative, trustee, administrator, or executor of a deceased person's estate to transfer or amend deeds of conservation or preservation easements; removing authorization to execute deeds of conservation and preservation easements where a decedent did not sign or complete the deed or easement; defining the duty of the personal representative, trustee, administrator, or executor; and establishing conditions for the exercise of the authority to transfer or amend.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. PERSONAL REPRESENTATIVES.

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

(a) Subject to the requirements and conditions of subsection (b) of this section, a personal representative, trustee, administrator, or executor of a decedent or a decedent's estate is hereby granted the authority to:

(1) Sell a conservation or preservation easement under §8A-12-1 et seq. of this code or §20-20-1 et seq. of this code;

(2) Donate a conservation or preservation easement under §8A-12-1 et seq. of this code or §20-20-1 et seq. of this code; or

(3) Amend a conservation or preservation easement created prior to the decedent's death under §8A-12-1 et seq. of this code or §20-20-1 et seq. of this code and recorded on the decedent's real property as may be permitted by applicable law and the conservation or preservation easement.

(b) The personal representative, trustee, administrator, or executor shall ensure that the sale, donation, amendment, or transfer, of a conservation or preservation easement complies with the following:
(1) The proposed sale, donation, transfer or amendment satisfies the requirements set forth in the provisions of §20-12-8a of this code, as applicable to the particular easement;

(2) The proposed sale, donation, transfer, or amendment is to a qualified conservation organization or holder and the organization or holder agrees to accept the conservation or preservation easement; and

(3) The sale, donation, transfer, or amendment must meet one of the following conditions:

(A) In the case of an administrator of a decedent's intestate estate, all heirs with interests in the real estate affected provide written consent which shall be recorded with the easement; or

(B) In the case of a personal representative or executor of a decedent's testate estate, or the trustee of a trust, the will, trust, or other governing instrument authorizes or directs the personal representative, executor, or trustee to sell or donate a conservation or preservation easement; or

(C) The sale, donation, transfer, or amendment of the conservation or preservation easement is authorized pursuant to a legal proceeding in a court of law with jurisdiction over the property.
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 90 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 24th Day of March 2020.

Governor