

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Senate Bill 702

BY SENATORS TRUMP, FERNS, GAUNCH, KIRKENDOLL,

BEACH, ASHLEY, KARNES, LEONHARDT, ROMANO,

PALUMBO, WILLIAMS, CLINE, SNYDER, MAYNARD AND

CARMICHAEL

[Passed March 12, 2016; in effect 90 days from
passage]

1 AN ACT to amend and reenact §44-8-1 of the Code of West Virginia, 1931, as amended, relating
2 to providing that, in instances where real estate, or an interest therein, is devised to be
3 sold and the proceeds thereof distributed, title to said real estate passes to those
4 individuals entitled to receive the proceeds of sale if the personal representative of the
5 estate does not do so upon the closing of the estate or if the estate is not closed five years
6 after the death of the testator.

Be it enacted by the Legislature of West Virginia:

1 That §44-1-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted
2 to read as follows:

ARTICLE 8. REAL ESTATE OF DECEDENTS.

**§44-8-1. Sale, conveyance and management of decedent's real estate; powers of executor
and administrator with will annexed.**

1 Real estate devised to be sold shall, if no person other than the executor be appointed for
2 the purpose, be sold and conveyed by the executor and the proceeds of sale, or the rents and
3 profits of any real estate which the executor is authorized by the will to receive, shall be received
4 by the executor who qualifies, or by his or her successor. If none qualify, or the one qualifying
5 shall die, resign or be removed before the trust is executed or completed, the administrator with
6 the will annexed shall sell or convey the lands so devised to be sold, and receive the proceeds of
7 sale, or the rents and profits aforesaid, as an executor might have done: *Provided*, That title to
8 real estate which is devised to be sold shall pass to the individuals entitled to receive the proceeds
9 thereof in such proportions as they are entitled to receive said proceeds absent any contrary
10 testamentary intent upon the closing of the testator's estate or, if the estate is not closed, five
11 years after the death of the testator.

12 When any will heretofore or hereafter executed gives to the executor named therein the
13 power to sell the testator's real estate, which has not been theretofore specifically devised therein,
14 the executor may sell any such real estate unless otherwise provided in said will. If such will

15 directs the sale of testator's real estate but names no executor, or names an executor and the
16 executor dies, resigns or becomes incapable of acting, and an administrator with the will annexed
17 is appointed, the administrator with the will annexed may sell such real estate as aforesaid.

18 Nothing in this section shall be deemed or construed so as to invalidate any conveyance
19 made prior to the effective date of the amendments thereto adopted by the Legislature at its
20 regular session held in the year 1987.