

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4329

BY DELEGATE CRISS

[Introduced January 21, 2022; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §44-1A-1 of the Code of West Virginia, 1931, as amended, relating
 2 to the West Virginia Small Estate Act; updating definitions; and adding a definition of the
 3 term “interested person” for purposes of identifying those who have a property right in or
 4 a claim against the estate of a decedent or property.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1A. WEST VIRGINIA SMALL ESTATE ACT.

§44-1A-1. Short title; definitions.

1 (a) This article may be cited as the West Virginia Small Estate Act.

2 (b) For the purposes of this article, the following definitions apply:

3 (1) “Authorized successor” means the successor of a decedent who files an affidavit and
 4 is certified and authorized by the clerk of the county commission or the fiduciary supervisor
 5 thereof, pursuant to the provisions of this article.

6 (2) “Interested Person” means heirs, devisees, children, spouses, or creditors.
 7 Beneficiaries and any others having a property right in or a claim against the estate of a decedent
 8 or property in an estate. Interested persons include persons having priority for appointment as a
 9 personal representative and other fiduciaries representing interested persons. The meaning of
 10 the term interested person varies from time to time. The meaning must be determined according
 11 to the particular purposes or matter involved in the proceeding. An interested person may also
 12 include a bank, financial institution, or person that is holding assets related to the estate.

13 ~~(2)~~ (3) “Person” means any individual, corporation, business trust, fiduciary, estate, trust,
 14 partnership, limited liability company, association, joint venture, government, governmental
 15 subdivision, agency, instrumentality, public corporation, or any other legal or commercial entity.

16 ~~(3)~~ (4) “Small asset” means any probate personal property or asset belonging or presently
 17 distributable to the decedent having a fair market value on the decedent’s date of death of not
 18 more than \$50,000. A small asset includes, but is not limited to, cash, a bank account, a savings
 19 institution account, a credit union account, a certificate of deposit, a brokerage account, stock, a

20 mutual fund, a security, a bond, a note, a promissory note, an obligation, an instrument evidencing
21 a debt, indebtedness owed to the decedent, proceeds of life insurance payable to the estate, a
22 deposit, a refund, a tax refund, an overpayment, a chose in action, or an item of tangible personal
23 property including a motor vehicle. A small asset does not include real estate or an interest in real
24 property. A small asset does not include a nonprobate asset of the decedent which would not be
25 subject to administration in the decedent's probate estate.

26 ~~(4)~~ (5) "Small estate" means a probate estate of a decedent who died domiciled in this
27 state in which: (A) The total aggregate fair market value, on the decedent's date of death, of small
28 assets does not exceed \$50,000; and (B) the total aggregate fair market value on the decedent's
29 date of death of all real estate or interests in real property situate in this state of which the
30 decedent owned or was seized or possessed does not exceed \$100,000, excluding any real
31 estate of the decedent which was held in any nonprobate form. For the purposes of this article,
32 the fair market value of real estate shall be presumed to be 167 percent of the current assessed
33 value of the real estate on the land books as reported by the assessor of the county in which the
34 real estate is situate.

35 ~~(5)~~ (6) "Successor" means any person, other than a creditor, who is nominated as a
36 personal representative or executor under the provisions of the will of the decedent, or who is
37 entitled under the provisions of the decedent's will or the laws of intestate descent and distribution
38 of this state to a part or all of a small asset of the decedent.

NOTE: The purpose of this bill is to clarify the definition of an "interested person" for purposes of the West Virginia Small Estate Act.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.