

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]

1 AN ACT to amend and reenact §44-1-29 of the Code of West Virginia, 1931, as amended, relating
2 to authorization for a personal representative, trustee, administrator, or executor of a
3 deceased person's estate to transfer or amend deeds of conservation or preservation
4 easements; removing authorization to execute deeds of conservation and preservation
5 easements where a decedent did not sign or complete the deed or easement; defining the
6 duty of the personal representative, trustee, administrator, or executor; and establishing
7 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.

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

4 (1) Sell a conservation or preservation easement under §8A-12-1 *et seq.* of this code or
5 §20-20-1 *et seq.* of this code;

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

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

12 (b) The personal representative, trustee, administrator, or executor shall ensure that the
13 sale, donation, amendment, or transfer, of a conservation or preservation easement complies with
14 the following:

15 (1) The proposed sale, donation, transfer or amendment satisfies the requirements set
16 forth in the provisions of §20-12-8a of this code, as applicable to the particular easement;

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

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

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

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

27 (C) The sale, donation, transfer, or amendment of the conservation or preservation
28 easement is authorized pursuant to a legal proceeding in a court of law with jurisdiction over the
29 property.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2020.

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Governor