

SB 347

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

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OFFICE OF WEST VIRGINIA
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ENROLLED

SENATE BILL NO. 347

(By Senator WOOTEN, ET AL)

PASSED MARCH 9, 1996

In Effect NINETY DAYS FROM Passage

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OFFICE OF THE CLERK
SPEAKER OF THE HOUSE
OF DELEGATES
STATE OF WEST VIRGINIA

ENROLLED

Senate Bill No. 347

(BY SENATORS WOOTON, ANDERSON, BOWMAN, BUCKALEW,
DITTMAR, GRUBB, MILLER, ROSS, SCHOONOVER, WAGNER,
WHITE AND YODER)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-one, article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section twenty-six, article three-a of said chapter, all relating to the order in which debts of a decedent are to be paid and relieving the decedent's estate and surviving spouse of the obligation to pay the decedent's funeral expenses if payment of those funeral expenses is provided for by an irrevocable pre-need funeral contract or trust.

Be it enacted by the Legislature of West Virginia:

That section twenty-one, article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section twenty-six, article three-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 2. PROOF AND ALLOWANCE OF CLAIMS AGAINST ESTATES OF DECEDENTS.

§44-2-21. Order in which debts of decedent are to be paid.

1 (a) If the applicable assets of the estate are insufficient
2 to pay all claims against the estate in full, the personal
3 representative shall make payment in the following
4 order:

5 (1) Costs and expenses of administration;

6 (2) Reasonable funeral expenses;

7 (3) Debts and taxes with preference under federal law;

8 (4) Unpaid child support which is due and owing at the
9 time of the decedent's death;

10 (5) Debts and taxes with preference under other laws
11 of the state of West Virginia;

12 (6) Reasonable and necessary medical and hospital
13 expenses of the last illness of the decedent, including
14 compensation for persons attending the decedent during
15 his or her last illness; and

16 (7) All other claims.

17 (b) If the applicable assets of the estate are insufficient
18 to pay all claims within a class, those claims within that
19 class shall be paid on a pro-rata basis. No preference
20 shall be given in the payment of any claim over any other
21 claim of the same class, and a claim due and payable
22 shall not be entitled to a preference over claims not due.

23 (c) Notwithstanding the provisions of subsection (a) of
24 this section, if the payment of all funeral expenses of the
25 decedent is provided for by an irrevocable pre-need
26 funeral contract or trust, neither the decedent's estate
27 nor the decedent's surviving spouse shall have any
28 obligation for the payment of such funeral expenses.

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

§44-3A-26. Order in which debts of decedent are to be paid.

1 (a) If the applicable assets of the estate are insufficient
2 to pay all claims against the estate in full, the personal
3 representative shall make payment in the following
4 order:

5 (1) Costs and expenses of administration;

6 (2) Reasonable funeral expenses;

7 (3) Debts and taxes with preference under federal law;

8 (4) Unpaid child support which is due and owing at the
9 time of the decedent's death;

10 (5) Debts and taxes with preference under other laws
11 of the state of West Virginia;

12 (6) Reasonable and necessary medical and hospital
13 expenses of the last illness of the decedent, including
14 compensation for persons attending the decedent during
15 his or her last illness; and

16 (7) All other claims.

17 (b) If the applicable assets of the estate are insufficient
18 to pay all claims within a class, those claims within that
19 class shall be paid on a pro-rata basis. No preference
20 shall be given in the payment of any claim over any other
21 claim of the same class, and a claim due and payable
22 shall not be entitled to a preference over claims not due.

23 (c) Notwithstanding the provisions of subsection (a) of
24 this section, if the payment of all funeral expenses of the
25 decedent is provided for by an irrevocable pre-need
26 funeral contract or trust, neither the decedent's estate
27 nor the decedent's surviving spouse shall have any
28 obligation for the payment of such funeral expenses.

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

Randy Schroyer
.....
Chairman Senate Committee

Rudy Seavint
.....
Chairman House Committee

Originated in the Senate.
In effect ninety days from passage.

Carol R. Bell
.....
Clerk of the Senate

Bryson D. Boy
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Paul Blanton
.....
Speaker House of Delegates

The within is approved this the 1st
day of April, 1996.

Gaston Caputo
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/28/96

Time 9:53am