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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

House Bill No. 4254

(By Delegates Mahan, Dalton, Tomblin,
Stemple, Smiri and L. White)



Passed March 14, 1998

In Effect Ninety Days from Passage

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H. B. 4254

(BY DELEGATES MAHAN, DALTON, TOMBLIN,
STEMPLE, SMIRL AND L. WHITE)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two and three, article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating generally to the computation of time within which a proceeding is to take place or an act is to be done; and designating days as weather or other emergency days when weather or emergency conditions prevent the general transaction of court business in a county.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three, article two, chapter two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2. LEGAL HOLIDAYS; SPECIAL MEMORIAL DAYS; CONSTRUCTION OF STATUTES; DEFINITIONS.

§2-2-1. Legal holidays; official acts or court proceedings.

- 1 (a) The following days are legal holidays:
- 2 (1) The first day of January is "New Year's Day";
- 3 (2) The third Monday of January is "Martin Luther
- 4 King's Birthday";

5 (3) The twelfth day of February is , "Lincoln's
6 Birthday";

7 (4) The third Monday of February is "Washington's
8 Birthday";

9 (5) The last Monday in May is "Memorial Day";

10 (6) The twentieth day of June is "West Virginia Day";

11 (7) The fourth day of July is "Independence Day";

12 (8) The first Monday of September is "Labor Day";

13 (9) The second Monday of October is "Columbus
14 Day";

15 (10) The eleventh day of November is "Veterans'
16 Day";

17 (11) The fourth Thursday of November is
18 "Thanksgiving Day";

19 (12) The twenty-fifth day of December is "Christmas
20 Day";

21 (13) Any day on which a general, primary or special
22 election is held is a holiday throughout the state, a political
23 subdivision of the state, a district or an incorporated city,
24 town or village in which the election is conducted; and

25 (14) Any day proclaimed or ordered by the governor
26 or the president of the United States as a day of special
27 observance or Thanksgiving, or a day for the general
28 cessation of business, is a holiday.

29 (b) If a holiday otherwise described in subsection (a)
30 of this section falls on a Sunday, then the following
31 Monday is the legal holiday. If a holiday otherwise
32 described in subsection (a) of this section falls on a
33 Saturday, then the preceding Friday is the legal holiday:
34 *Provided*, That this subsection (b) shall not apply to
35 subdivision (13), subsection (a) of this section.

36 (c) Any day or part thereof designated by the
37 governor as time off, without charge against accrued
38 annual leave, for state employees statewide may also be

39 time off for county employees if the county commission
40 elects to designate the day or part thereof as time off,
41 without charge against accrued annual leave for county
42 employees. Any entire or part statewide day off
43 designated by the governor may, for all courts, be treated
44 as if it were a legal holiday.

45 (d) In computing any period of time prescribed by
46 any applicable provision of this code or any legislative
47 rule or other administrative rule or regulation
48 promulgated pursuant to the provisions of this code, the
49 day of the act, event, default or omission from which the
50 applicable period begins to run is not included. The last
51 day of the period so computed is included, unless it is a
52 Saturday, a Sunday, a legal holiday or a designated day
53 off in which event the prescribed period of time runs until
54 the end of the next day that is not a Saturday, Sunday,
55 legal holiday or designated day off.

56 (e) If any applicable provision of this code or any
57 legislative rule or other administrative rule or regulation
58 promulgated pursuant to the provisions of this code
59 designates a particular date on, before or after which an
60 act, event, default or omission is required or allowed to
61 occur, and if the particular date designated falls on a
62 Saturday, Sunday, legal holiday or designated day off,
63 then the date on which the act, event, default or omission is
64 required or allowed to occur is the next day that is not a
65 Saturday, Sunday, legal holiday or designated day off.

66 (f) With regard to the courts of this state, the
67 computation of periods of time, the specific dates or days
68 when an act, event, default or omission is required or
69 allowed to occur and the relationship of those time periods
70 and dates to Saturdays, Sundays, legal holidays, or days
71 designated as weather or other emergency days pursuant
72 to section two of this article are governed by rules
73 promulgated by the supreme court of appeals.

74 (g) The provisions of this section do not increase or
75 diminish the legal school holidays provided for in section
76 two, article five, chapter eighteen-a of this code.

§2-2-2. When acts to be done fall on Saturday, Sunday or legal holiday; adjournments from day to day.

1 (a) When a proceeding is directed to take place or any
2 act to be done on any particular day of the month or
3 within any period of time prescribed or allowed, including
4 those provided by article two, chapter fifty-five, of this
5 code, if that day or the last day falls on a Saturday,
6 Sunday, legal holiday, or a weather or other emergency
7 day, the next day that is not a Saturday, Sunday, legal
8 holiday, or a weather or other emergency day shall be
9 deemed to be the one intended, and when the day upon
10 which a term of court is directed by law to commence,
11 falls on a Saturday, Sunday, legal holiday, or a weather or
12 other emergency day, the following day that is not a
13 Saturday, Sunday, legal holiday, or a weather or other
14 emergency day shall be deemed to be the day intended.
15 When an adjournment is authorized from day to day, an
16 adjournment from Friday to Monday will be legal.

17 (b)(1) For purposes of this section, "weather or other
18 emergency day" means a day designated for a county in
19 accordance with the provisions of subdivision (2) of this
20 subsection as a day upon which weather or other
21 emergency conditions in that county prevent the general
22 transaction of court business in that county.

23 (2) A weather or other emergency day is designated
24 by order of the chief justice of the supreme court of
25 appeals or by order of the chief judge of the circuit court
26 of the county in which the proceeding is directed to take
27 place or in which the act is to be done.

§2-2-3. Computation of time.

1 The provisions of sections one and two of this article
2 relating to the time or period prescribed or allowed within
3 which an act is to be done shall not be deemed to change
4 any rule of law applicable to bills of exchange or
5 negotiable notes.

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

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within approved this the 6th
day of April, 1998.

[Signature]
Governor

PRESENTED TO THE

GOVERNOR

Date. 3/31/98.

Time. 11:22 am