WEST VIRGINIA CODE: §21-5C-8

§21-5C-8. Civil remedy of employee; limitation of actions.

(a) Any employer who pays an employee less than the applicable wage rate to which such employee is entitled under or by virtue of this article shall be liable to such employee for the unpaid wages; an agreement by an employee to work for less than the applicable wage rate is hereby declared by the Legislature of West Virginia to be against public policy and unenforceable.

(b) Any person whose wages have not been paid in accord with this article, or the commissioner or his designated representative, upon the request of such person, may bring any legal action necessary to collect a claim under this article. With the consent of the employee, the commissioner shall have the power to settle and adjust any claim to the same extent as might the employee.

(c) The court in any action brought under this article may, in the event that any judgment is awarded to the plaintiff or plaintiffs, assess costs of the action, including reasonable attorney fees against the defendant. Such attorney fees in the case of action brought under this section by the commissioner shall be remitted by the commissioner to the treasurer of the state. The commissioner shall not be required to pay the filing fee or other costs or fees of any nature or to file a bond or other security of any nature in connection with such action or with proceedings supplementary thereto, or as a condition precedent to the availability to the commissioner of any process in aid of such action or proceedings. The commissioner shall have power to join various claimants in one claim or lien, and in case of suit to join them in one cause of action.

(d) In any such action the amount recoverable shall be limited to such unpaid wages as should have been paid by the employer within two years next preceding the commencement of such action. Nothing in this article shall be construed to limit the right of an employee to recover upon a contract of employment.

WV Legislature