WEST VIRGINIA CODE CHAPTER 34

WV Legislature

§34-1-1. Taking up estray or boat.

Any person may take up an estray found on his land, or a boat or vessel adrift. He shall immediately post notices at three public places in the district wherein the property is so found, giving a description of the property and stating when the same was so taken up; and if the owner of such property shall not appear and claim the same within two weeks from the posting of such notice, then the person so taking such property up shall cause a like notice to be published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where the property was taken up. In either case the owner may have possession of such property upon paying the costs of such posting and publishing of such notice and of keeping the property; and if the owner shall not appear and claim such property within three weeks from the date of the first publication of such notice in a newspaper, the person taking the same up shall immediately inform a justice of the district thereof, who shall issue his warrant to three freeholders, requiring them under oath to view and appraise such estray, or boat or vessel, and certify the result, with a description of the kind, marks, brand, stature, color and age of the animal, or kind, burden and build of the boat or vessel.

WV Legislature

§34-1-2. Recordation and posting of certificate.

Such freeholders shall return their certificate, with the warrant, to the clerk of the county court of the county, who shall record the same in a book kept for that purpose, and post a copy thereof at the door of the courthouse of the county within one week after his receipt of such certificate.

WV Legislature

§34-1-3. Effect of failure of owner to claim.

If the owner of such property shall not have appeared within thirty days after such copy has been so posted, and the valuation thereof be under $15, or if such valuation be as much as $15, and the owner shall not have appeared after such certificate has been published as aforesaid, and also three times in some newspaper such as is mentioned in section one of this article, it shall belong in either case to the owner of the land on which it was so taken, if an estray, or to the person taking it up, in the case of a boat or vessel.

WV Legislature

§34-1-4. Rights of owner.

The former owner may, at any time after, recover the valuation money, except the amount of the clerk's and printer's fees, and the fees of the justice and freeholders for the service mentioned in section one of this article and in this section, and such compensation for keeping the property down to the time when it became the property of the person so taking it up, as shall be certified under oath by any two freeholders in the county where the property was valued.

WV Legislature

§34-1-5. Liability for death or loss.

If such estray die, or any such property be lost to such owner of the land or person taking it up, without his fault, he shall not be liable for the same or its valuation.

WV Legislature

§34-1-6. Drift property -- Rights of person taking up.

When any property, not mentioned in section one of this article, is drifted on any waters of this state, and taken up by any person, or deposited and left on the lands of any person, other than the owner of such property, the person taking it up, or the owner of such land, shall, as against all persons other than the owner of such property, be deemed and treated, and have the same rights and remedies relating thereto, as such owner thereof.

WV Legislature

§34-1-7. Same -- Rights of owner.

The owner of such property, after he shall have paid to the person taking it up, or to the owner of such land, a just compensation for any proper care, labor, or expense bestowed, done, or incurred by him about such property, but not before, may enter upon such land for the purpose, and, doing as little injury as possible thereto, may remove such property, but shall pay to the owner of such land any damages to him occasioned by such entry and removal.

WV Legislature

§34-1-8. Same -- Sale or use.

If the owner of such property as is mentioned in section six of this article shall not, within three months from the time the same was so taken up or deposited, remove or demand from the person taking it up, or the owner of such land, such property, the person taking it up or the owner of such land may sell such property, or otherwise convert the same to his own use; but deducting a just compensation for any proper care, labor or expense bestowed, done, or incurred by the person taking it up or the owner of such land about such property, from the amount received by him as the price thereof, or the actual value thereof, at the time of such sale or other conversion, he shall pay to the owner, if he shall elect to receive it, the residue of the amount received as such price, or otherwise the residue of such actual value. The owner of such property, after he shall have demanded such residue, and proved by the affidavit of some other person, or otherwise by a competent witness, his right thereto, or offered to prove such right, and the owner of such land shall have refused or declined to inspect or hear the evidence thereof, but not before, may recover such residue of such amount received as such price as money received for his use, or the residue of such actual value as the price of goods sold by the owner of such property to the owner of such land, or as the value of goods of the owner of such property found by the owner of such land, and converted by him to his own use.

WV Legislature

§34-1-9. Liability for false claim; acts intended to hinder or delay owner in reclaiming property.

If any person shall falsely or fraudulently procure a warrant to be issued by a justice, under section one of this chapter, for the appraisement of anything as an estray or drift property which is not such; or shall secrete any such estray or property, or alter or change the appearance thereof, or the marks thereon, with intent to hinder or delay the owner thereof in reclaiming the same, or to render the identification of such estray or property difficult, he shall be guilty of a misdemeanor, and, on conviction thereof, be fined not less than ten, nor more than $500; and shall, moreover, be liable to the owner for double the value of such estray or property.

WV Legislature

§34-1-10. Proof of ownership.

In any action, suit, prosecution or controversy about any property mentioned in this article, the person claiming to be the owner thereof must prove his ownership thereof, in order to sustain his claim to be such owner, as against the person taking up such property, or on whose land it was deposited.

WV Legislature

§34-1-11. Taking up timber adrift in certain rivers; compensation; sale.

[Repealed.]

WV Legislature

§34-2-1. Method of recovery of unclaimed residuum and derelict property.

The residuum of a decedent's estate, belonging to the state, and any property derelict, or having no rightful owner, may be recovered from any person in possession thereof, by a bill in equity in the name of the state.

WV Legislature

§34-2-2. Notice of suit.

When any such suit as is mentioned in the preceding section is instituted, the court shall cause a publication to be made setting forth the nature of the claim, the name and nativity (when known) of the deceased person, or of the former owner of the property, if known, as the case may be, and describing the property or estate claimed, and requiring all persons claiming an interest therein to appear and make themselves defendants, by a given day of an ensuing term. Such publication shall be made as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which the seat of state government may be.

WV Legislature

§34-2-3. Decree of title to state.

If, in such a suit as is mentioned in section one of this article, no person appears to show title in himself the court shall decree the residuum or other property to the state, and enforce the collection thereof, or of the proceeds of the sale of such property. Any real property so decreed to the state shall be remitted to the State Auditor. Any personal property shall be remitted to the State Treasurer for disposition by public sale in accordance with the provisions of section twelve, article eight, chapter thirty-six of this code. The proceeds of the sale of any such real property shall be deposited to the credit of the general school fund. The proceeds of the sale of any such personal property shall be deposited to the credit of the General Fund.

WV Legislature

§34-2-4. Recovery of money paid into State Treasury under this article.

After any such decree for the payment of such residuum of a decedent's estate, or the proceeds of the sale of any such derelict property or property having no rightful owner, any person who had not asserted a claim before the sale or decree, who may be entitled to such residuum or derelict or other property, may recover the net proceeds paid into the treasury under such decree. The same may be allowed by the Auditor, or, if the claim be rejected by him it may be recovered in the manner provided in article two, chapter fourteen of this code, for recovering claims against the state.

WV Legislature