

## **WEST VIRGINIA CODE: §38-5-20**

### **§38-5-20. Suit for recovery of property or debt subject to lien.**

For the recovery of any personal property or any claim on which a writ of fieri facias or an execution is a lien under this article, or the enforcement of any liability in respect to any such property, or for the enforcement of any debt or liability of any person to the judgment debtor, on which the writ of fieri facias or execution is a lien, a suit may be maintained by the judgment creditor either at law or in equity, as the case may require. If such suit be at law, it may be brought in the name of the judgment debtor, for the use and benefit of the judgment creditor to the extent of his lien. If such suit be in equity, it may be brought in the name of the judgment creditor. Such suit may be brought by the judgment creditor instead of a proceeding in suggestion, or, after a proceeding in suggestion has been begun, the judgment creditor may, at any time before an order for payment or delivery has been made against the person suggested, dismiss such proceeding in suggestion at his own costs, and commence a suit under this section. If a recovery is had in such suit at law, the costs shall be assessed against the defendant in such suit. If no recovery be had, the costs shall be assessed against the judgment creditor. If the suit be in equity, the costs may be assessed as in other suits in equity. Any fact which would constitute a defense to a person suggested under the provisions of this article shall be a defense to any person sued under this section.