WEST VIRGINIA CODE: §44-3A-16

§44-3A-16. Personal representative not precluded from commencing action or suit; setoff in such actions or suits.

Nothing in this article contained shall be construed to prevent any personal representative, when he shall think it necessary, from commencing any action against any person, or from prosecuting to final judgment any action commenced by the deceased in his lifetime, if the cause of such action survives, for the recovery of any debt or claim, or from having execution on any judgment. The defendant in any such action shall, notwithstanding he may have already filed his claim before the fiduciary supervisor, set off by way of counterclaim any claim he may have against the deceased, if proper to be allowed as a counterclaim; and if final judgment shall be rendered in favor of the defendant, the same shall be certified by the clerk of the court rendering it to the fiduciary supervisor or fiduciary commissioner before whom the estate of the deceased is pending, and the amount thereof shall be allowed in the same manner as other claims against such estate filed and proved before such clerk or commissioner.

WV Legislature