WEST VIRGINIA CODE: §45-1-3

§45-1-3. Judgment, decree or recovery not binding on surety not party to proceeding.

Whether the surety, guarantor or indorser (or his committee or personal representative) shall have given notice as provided in the first section of this article or not, no judgment, decree or recovery rendered, entered, or had in any suit, action, prosecution or proceeding, to which the surety, guarantor or indorser (or his committee or personal representative) was not a party regularly served with process, shall be in any wise binding on such surety, guarantor or indorser (or his committee or personal representative), and, notwithstanding such decree, judgment or recovery, the surety, guarantor or indorser (or his committee or personal representative) shall be allowed to make any such defense in any action, suit or proceeding instituted against him as could have been made in the suit in which such decree, judgment or recovery was had.

WV Legislature