WEST VIRGINIA CODE CHAPTER 55 ARTICLE 13

WV Legislature

§55-13-1. Power of courts to declare rights, status and other legal relations; objections; form and effect of declaration.

Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

WV Legislature

§55-13-2. Who may have determination and obtain declaration.

Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

WV Legislature

§55-13-3. Construction of contract before or after breach.

A contract may be construed either before or after there has been a breach thereof.

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§55-13-4. Declaration concerning trusts and estates.

Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic or insolvent, may have a declaration of rights or legal relations in respect thereto:

(a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; or

(b) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

WV Legislature

§55-13-5. No restriction on powers conferred by §55-13-1.

The enumeration in sections two, three, and four does not limit or restrict the exercise of the general powers conferred in section one, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

WV Legislature

§55-13-6. When court may refuse judgment.

The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

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§55-13-7. Review.

All orders, judgments and decrees under this article may be reviewed as other orders, judgments and decrees.

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§55-13-8. Further relief.

Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

WV Legislature

§55-13-9. Trial and determination of issues of fact.

When a proceeding under this article involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

WV Legislature

§55-13-10. Costs.

In any proceeding under this article the court may make such award of costs as may seem equitable and just.

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§55-13-11. Parties.

When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the Attorney General of the state shall also be served with a copy of the proceeding and be entitled to be heard.

WV Legislature

§55-13-12. Article remedial; liberal construction and administration thereof.

This article is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.

WV Legislature

§55-13-13. "Person" defined.

The word "person," wherever used in this article, shall be construed to mean any person, partnership, joint-stock company, unincorporated association or society, or municipal or other corporation of any character whatsoever.

WV Legislature

§55-13-14. Severability.

The several sections and provisions of this article, except sections one and two, are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the article invalid or inoperative.

WV Legislature

§55-13-15. Interpretation and construction of article.

This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

WV Legislature

§55-13-16. Citation of article.

This article may be cited as the "Uniform Declaratory Judgments Act."

WV Legislature