WEST VIRGINIA CODE: §55-4-31

§55-4-31. Petition for ascertainment and designation of boundary line or lines of real estate.

Any person having a subsisting interest in real estate and a right to its possession, or to the possession of some share, interest or portion thereof, upon petition filed in the court which would have jurisdiction in an action of ejectment concerning such real estate, shall have the right to have ascertained and designated by the said court, the true boundary line or lines to such real estate, as to one or more of the coterminous landowners. Petitioner in his petition shall state whether his interest is in fee, for life, for a term or otherwise, and shall describe with reasonable certainty said real estate and the boundary line or lines thereof which he seeks to establish. A plat showing such real estate and boundary line or lines, filed with the petition, may serve the purposes of such description.

The petitioner shall make defendants to said petition all persons having a present interest in the boundary line or lines sought to be ascertained and designated, and the case shall be commenced by serving a copy of the petition upon the defendant or defendants. If the petition shall have been served on the defendant or defendants and filed in the clerk's office not less than thirty days preceding the first day of a term of court the case shall be matured for trial at said term. The defendant or defendants may file an answer to said petition which shall state the grounds of defense, if any, and the parties shall be deemed to be at issue, which issue shall be the true boundary line or lines of such real estate. The trial shall be conducted as other trials at law, and the same rules of evidence shall apply and the same defenses may be made as in other actions at law. A trial by jury may be waived by consent of the parties, and the case be tried by the court. Counsel for the petitioner shall have the right to open and conclude the argument. The judgment of the court shall be recorded in the law order book, and in the current deed book in the office of the clerk of the county court, and indexed in the names of the parties.

The judge of the court in term time or vacation may direct such surveys to be made as he may deem necessary. The judgment of the court, unless reversed, shall forever settle, determine, and designate the true boundary line or lines in question, and be binding upon the parties, their heirs, devisees, and assigns. The judgment may be enforced in the same manner as a judgment in an action of ejectment. A writ of error from the Supreme Court of Appeals shall lie to such judgment in like manner as in a common-law action.

In a proceeding under this section, no claim for rents, profits or damages shall be considered.

WV Legislature