WEST VIRGINIA CODE CHAPTER 55 ARTICLE 6

WV Legislature

§55-6-1. Immediate recovery of possession of personal property; notice and prejudgment hearing.

If the plaintiff in a civil action, whether in a circuit court or magistrate court, for the recovery of specific goods, chattels, or intangible personal property, shall demand immediate possession thereof, a prejudgment hearing shall be held in not less than five nor more than ten days after service upon the defendant of the summons, a verified complaint describing said personal property, and a notice of the time, place, and purpose of the prejudgment hearing. At the prejudgment hearing an inquiry shall be held to determine: (a) The nature of the right or contract under which the plaintiff claims a right to immediate possession; and (b) the nature of the defendant's right to retain possession thereof.

WV Legislature

§55-6-2. Finding of fact by court or magistrate; bond; order for seizure.

If the court or magistrate shall conclude, upon the basis of the evidence adduced at said prejudgment hearing, that there is a substantial probability that the plaintiff will prevail upon trial of the action upon the merits, the court or magistrate may order that, upon the plaintiff's execution of a bond, with good security to be approved by the clerk of the circuit court or the magistrate and delivered to said clerk or magistrate in a penalty at least double the value of the property claimed, payable to the defendant and with condition to pay all costs and damages which may be awarded against the plaintiff, or sustained by any person by reason of said civil action and to have the property so claimed forthcoming to answer any judgment or order of the court or magistrate in said civil action, the property claimed, or any part thereof described or designated by the court or magistrate, be seized by and taken into the possession of a designated officer.

WV Legislature

§55-6-3. Seizure of property by officer.

It shall be the duty of the officer to whom any such summons or order is delivered to proceed forthwith to execute the same; and he may, if necessary, break open and enter any house or other inclosure in which such property may be, in order to seize the same.

WV Legislature

§55-6-4. Return of property to defendant upon execution of bond.

The defendant in any such action may have the property taken possession of by such officer, by virtue of such summons or order, returned to him at any time within three days after such taking, upon executing a bond with good security, to be approved by such officer, payable to the plaintiff, in a penalty at least double the value of such property, with condition to pay all costs and damages which may be awarded against him in such action, and all damages which may be sustained by any person by reason of the return of such property to him and to have the property forthcoming to answer any judgment or order of the court or justice respecting the same made at any time during the pendency of the action; which bond shall be delivered to such officer, and by him returned to the office of the clerk or justice who issued such summons or order. Upon the reception of such bond by the officer aforesaid, he shall forthwith return the property taken by him to the defendant; but in case no such bond be delivered to such officer within such three days, the property shall be delivered by an officer to the plaintiff.

WV Legislature

§55-6-5. Exception to sufficiency of sureties.

Either party may, upon reasonable notice to the other, except to the sufficiency of the sureties in the bond of such other party and the court, or the judge thereof in vacation, or the justice before whom such action is pending, may, upon the hearing of such exceptions, make such order in the premises as may seem just and equitable.

WV Legislature

§55-6-6. Verdict and judgment.

Upon the final trial of any such action, if the verdict be for the plaintiff, and he be not already in the possession of the property claimed, the judgment shall be that he recover the possession of such property, if a recovery thereof can be had; and if not, that he recover the value thereof as found by such verdict; and, in either event, that he recover the damages assessed by the jury for the detention of such property, and his costs in such action. And it shall be the duty of the jury in such cases to ascertain and assess such damages as the plaintiff has sustained by reason of the detention of such property by the defendant. If the plaintiff be already in possession of such property, the judgment shall be that he retain the possession thereof, and for damages and costs, as aforesaid. In case the verdict at such trial be for the defendant, if the plaintiff be in possession of the property claimed, the judgment shall, in like manner, ascertain and assess the damages sustained by the defendant by reason of the detention of such property by the plaintiff and also the value of such property, and judgment shall be entered upon such verdict in all respects as is provided in case the verdict be for the plaintiff. If, on an issue concerning several things in one count, no verdict be found for part of them, it shall not be error, but the plaintiff shall be barred of his title to the things omitted; and if the verdict omit price or value, the court may at any time have a jury impaneled to ascertain the same.

WV Legislature

§55-6-7. Execution.

The execution issued in such cases shall conform in all things to the judgment entered therein.

WV Legislature