WEST VIRGINIA CODE: §56-4-71

§56-4-71. Pleadings and proof in actions on bonds, notes or other evidences of debt subject to taxation.

In every action at law, proceeding or suit in equity, instituted on and after July 2, 1934, in a court of record in this state, for the collection of any bonds, notes, or other evidences of debt, the plaintiff or claimant shall be required to allege in his pleadings, or to prove by affidavit or otherwise at any time before final judgment or decree is entered:

(1) That such bonds, notes or other evidence of debt have been assessed for taxation for each and every tax year on the first day of which he was the owner of same, not exceeding five years prior to that in which the action, suit or proceeding was instituted and not in any event, for any period beginning earlier than January 1, 1933, or

(2) That such bonds, notes, or other evidence of debt constituted a part of the capital employed in the business of such plaintiff or claimant and were assessed or taxed as such, or otherwise assessed or taxed as prescribed by law, or

(3) That the plaintiff or claimant has not paid, or is unable to pay, the taxes and interest and penalties, if any, on such bonds, notes or other evidences of debt, but is willing for the same to be paid out of his first recovery thereon, or

(4) That such bonds, notes or other evidence of debt sued upon are not taxable under the law in the hands of the plaintiff or claimant, or are otherwise exempt from taxation; and no judgment or decree of a court of record rendered in an action, suit or proceeding instituted on and after the date aforesaid, shall be valid unless the allegation herein required was made, or unless the proof herein required was reduced before final judgment or decree was entered.

When in any such action at law, suit in equity or proceeding, it is ascertained that there are unpaid taxes, including interest and penalties, if any, on the evidence or evidences of debt sought to be enforced, and the plaintiff or claimant makes it appear to the court that he has not paid, or is unable to pay, said taxes, including interest and penalties, if any, but is willing for the same to be paid out of his first recovery thereon, the court may order, as a part of any judgment or decree in said action, suit or proceeding, that the taxes, including interest and penalties, if any, that are due and owing, shall be paid to the proper officer out of the first collection on said judgment or decree.

But the title to real estate heretofore or hereafter sold by virtue of a deed of trust, mortgage or vendor's lien, shall not be drawn in question upon the ground that the holder of the notes or bonds or evidences of debt secured by such deed of trust, mortgage or vendor's lien, did not list the same for taxation; and this section shall not affect in any manner any action, suit or proceeding pending or instituted in any court of this state prior to July 2, 1934.

WV Legislature

If any paragraph, sentence, clause or phrase of this section shall for any reason be held invalid, the validity of the remaining phrases, clauses, sentences and paragraphs of this section shall not be affected thereby.

WV Legislature