WEST VIRGINIA CODE CHAPTER 57 ARTICLE 1

WV Legislature

§57-1-1. Copies of legislative journals, acts and resolutions.

Copies of the journal of either house of the Legislature, and copies of the acts and resolutions of the Legislature, which have been or shall hereafter be published by authority thereof, shall be received as evidence for any purpose for which the original journal, acts or resolutions could be received and with as much effect.

WV Legislature

§57-1-2. Local or private acts and resolutions of Legislature; judicial notice thereof.

Local or private acts and resolutions of the Legislature may be given in evidence without being especially pleaded; and an appellate court shall take judicial notice of such as appear to have been relied on in the court below.

WV Legislature

§57-1-3. Copies of Virginia laws.

The printed copies of the acts and resolutions of the general assembly of Virginia and of the statutes and codes of that state, with the supplements to and continuations of the same, and the ordinances of the convention which assembled at Wheeling on June 11, eighteen hundred and sixty- one, shall continue to be received in evidence within this state, in like manner as they were receivable when it was part of the state of Virginia.

WV Legislature

§57-1-4. Judicial notice of foreign laws.

Whenever in any case it becomes material to ascertain what the law, statutory or other, of another state or country, or of the United States, is, or was at any time, the court, judge, or magistrate shall take judicial notice thereof, and may consult any printed book or other document, purporting to contain, state or explain the same, and consider any testimony, information or argument that is offered on the subject.

WV Legislature

§57-1-5. Notice by courts and officers of signatures of judges or Governor.

All courts and officers shall take notice of the signature of any of the judges, or of the Governor, of this state, to any judicial or official documents.

WV Legislature

§57-1-6. Copies of certain deeds.

Copies of deeds, acknowledged or proved and certified according to the act of the general assembly of Virginia, of the thirteenth of December, seventeen hundred and ninety-two, and placed upon record after the expiration of two years, the period prescribed by the act of the twenty-fifth of December, seventeen hundred and ninety-four, but before the passage of the act of the seventh of February, eighteen hundred and fourteen, shall be received in evidence, and have all the force and effect of copies of deeds recorded within two years, the period prescribed as aforesaid: Provided, That nothing in this section shall be construed to affect the rights of creditors and subsequent purchasers without notice.

WV Legislature

§57-1-7. Copies of records, bonds or papers in public offices; certificate of Auditor.

A copy of any record, bond or paper in the office of the clerk of either house of the Legislature or of any court, or in the office of the Secretary of State, treasurer or Auditor, or in the office of the surveyor of lands of any county, or in the office of any other public officer, attested by the appropriate officer, which shall include the secretary of a board or commission, in whose office the same is, may be admitted as evidence in lieu of the original. The certificate of the Auditor of the fact and time of the return of any real estate as delinquent, or of the sale thereof for taxes, shall be prima facie evidence of what is stated in such certificate. Any such copy or certificate purporting to be sealed, or signed and sealed, or signed alone, by any such officer, may be admitted as evidence without any proof of the seal or signature, or of the official character, of the person whose name is signed to it. The certificate of the Auditor of the payment or nonpayment at any time of taxes on forfeited or delinquent lands, or of their not having been entered on the land books of the county or counties wherein the same were chargeable with taxes shall, in any suit in relation to such lands, be prima facie evidence of what is stated in such certificate, provided it be filed with the papers of said suit and notice thereof be given to the opposite party or his attorney at least twenty days before the first day of the term at which it is to be offered as evidence. When the certificate purports to be signed by the said Auditor, it may be admitted as evidence without proof of his signature.

WV Legislature

§57-1-7a. Use of photographic copies in evidence; state records, papers or documents; destruction or transfer to archives of originals; destruction of canceled checks and paid and canceled bonds and coupons.

(a) Any public officer of the state may, with the approval of the state records administrator, cause any or all records, papers or documents kept by him to be reproduced, by any photographic, photostatic, microphotographic or by similar miniature photographic process or by nonerasable optical image disks (commonly referred to as compact disks) or by other records-retention technology approved by the state records administrator. These reproductions by photographic, photostatic, microphotographic or by similar miniature photographic process or by nonerasable optical image disks shall be of durable material and the device used to reproduce such records on such film shall be one which accurately reproduces the originals thereof in all details.

The reproductions by photographic, photostatic, microphotographic or by similar miniature photographic process or nonerasable optical image disks shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification or certified copy of the original. Whenever reproductions by photographic, photostatic, microphotographic or by similar miniature photographic process or nonerasable optical image disks have been made and put in conveniently accessible fireproof files, and provision has been made for preserving, examining and using the same, the respective heads of the departments, divisions, institutions and agencies of the state may, with the approval of the state records administrator, cause the records and papers so reproduced by photographic, photostatic, microphotographic or by similar miniature photographic process or nonerasable optical image disks, or any part thereof, to be destroyed; but before any records, papers or documents are authorized to be destroyed, the state records administrator shall obtain the advice and counsel of the state historian and archivist, or his designated representative, as to the desirability of placing the records, papers and documents in the archives of that department. In the event the administrator is of the opinion that the record has no further administrative, legal, fiscal, research or historical value, the administrator may destroy or otherwise dispose of the record, paper or document if otherwise permitted to do so after complying with the provisions of section seventeen, article eight, chapter five-a of this code.

(b) Notwithstanding any other provisions of this code to the contrary, the State Treasurer may at his discretion destroy any canceled checks of the state after three years have elapsed since the date of the check, whether or not such checks have been reproduced by photographic, photostatic, microphotographic or by similar miniature photographic process or nonerasable optical image disks: Provided, That any canceled bonds or interest coupons of any bond issues of this state in the custody of the treasurer, or for which the treasurer acts as fiscal agent or paying agent, may at his discretion be destroyed by one of the two methods below:

Method I - The treasurer shall maintain a permanent record for the purpose of recording the

WV Legislature

destruction of bonds and coupons, showing the following: (1) With respect to bonds, the purpose of issuance, the date of issue, denomination, maturity date and total principal amount; and (2) with respect to coupons, the purpose of issue and date of the bonds to which the coupons appertain, the maturity date of the coupons, and, as to each maturity date, the denomination, quantity and total amount of coupons.

After recording the specified information, the treasurer shall have the canceled bonds and coupons destroyed either by burning or shredding, in the presence of an employee of the treasurer and an employee of the Legislative Auditor, each of whom shall certify that he saw the canceled bonds and coupons destroyed. The certificates shall be made a part of the permanent record. Canceled bonds or coupons shall not be destroyed until after one year from the date of payment.

Method II - The treasurer may contract with any bank or trust company acting as paying agent or copaying agent for a bond issue of the state for the destruction of bonds and interest coupons which have been canceled by the paying agent. The contract shall require that the paying agent give the treasurer a certificate containing the same information required by Method I. The certificate shall be made a part of the treasurer's permanent records.

Each contract shall also require that the paying agent be responsible for proper payment and disposition of all bonds and coupons, and for any duplicate payments to unauthorized persons and nonpayment to authorized persons occurring as a result of destruction of bonds or coupons under this section. In addition, the treasurer may require the paying agent to submit an indemnity bond, in an amount to be determined by the treasurer, to assure performance of the duties specified in this section. Canceled bonds or coupons may not be destroyed until one year from the date of payment.

For purposes of this section, the term "bonds" shall include interim certificates.

WV Legislature

§57-1-7b. Use of photographic copies in evidence -- Business and public records; destruction of originals.

If any business, institution, member of a profession or calling, or any officer of a local governmental agency, including county officers, county boards of education and municipalities, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law: Provided, however, That destruction of records of local governmental agencies shall also be contingent upon the approval by those agencies of such disposition. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not, and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement of facsimile, does not preclude admission of the original.

WV Legislature

§57-1-7c. Use of microfilm or microcards to reproduce and preserve records; destruction or transfer of originals to archivist.

The clerk of any court of record of the state may, with the approval of the court for which he or she is clerk, cause any or all records, papers, plats, or other documents kept by him or her to be reproduced on photographic microfilm or microcards and may, with the approval of the court for which he or she is clerk, record, keep and preserve any and all records, papers, plats, or other documents required by the laws of this state to be recorded or kept by said clerk or court exclusively upon photographic microfilm or microcards instead of in well-bound books or instead of by any other method heretofore prescribed by law.

Such photographic microfilm and microcards shall be of durable material and possess good, archival qualities. The device used to reproduce such records on such film and cards shall be one which accurately reproduces the original thereof in all details.

Such photographic microfilm and microcards shall be deemed to be an original record for all purposes, including introduction into evidence in all courts or administrative agencies. A transcript, exemplification, or photographic reproduction thereof shall, when properly authenticated by the clerk of such court, be deemed for all purposes to be a transcript, exemplification, or certified copy of the original.

Such photographic microfilm and microcards shall be put in convenient, accessible fireproof files and adequate provision shall be made for preserving, examining and using the same.

Any such records, papers, plats, or other documents not held for others by said clerk or court or required by law to be delivered to some other person, court, corporation or agency, may with the approval of the court keeping such records, papers, plats, or other documents be destroyed; but before any such records, papers, plats or other documents are authorized to be destroyed the court keeping them or the clerk thereof shall obtain the advice and counsel of the state historian or archivist, or his designated representatives, as to the desirability of placing the said records, papers, plats, or other documents in the department of archives and history. However, prior to destroying or otherwise disposing of the same, the court or clerk thereof shall give written notice of the intention to do so to the director of the section of archives and history of the Division of Culture and History. Upon the written request of the director, given to the court or clerk thereof within ten days of receipt of said notice, the court or clerk thereof shall retain the original record for a period of thirty days. In the event the director fails to retrieve the original document from the court or clerk thereof within the thirty-day period, the court or clerk thereof may destroy or otherwise dispose of the original without further notice to the director.

WV Legislature

§57-1-7d. Records provided on computer or optical disc.

Notwithstanding any other provision of this code to the contrary, where any provision of this code requires that a copy of any record of any branch of the government of this state be provided or delivered, the custodian of said record is authorized to comply with the requirement by providing or delivering a true copy in the form of a computer or optical disc which is not subject to alteration, is formatted to write once read many, and is attested by the custodian thereof to be a true, accurate and complete copy of the record required to be provided or delivered.

WV Legislature

§57-1-8. Copy of writing filed in one suit may be filed in another suit on same writing.

Such a copy of any writing filed in a suit may be filed in another suit on the same writing, and the defendant shall plead thereto as if the original were filed.

WV Legislature

§57-1-9. Application of §§57-1-7 and 57-1-8 to records or papers in public offices in Virginia.

The provisions in the two preceding sections contained shall apply to a copy of any record or paper in the clerk's office of any court in the state of Virginia, or in the office of the secretary of the commonwealth, treasurer, register of the land office, or either Auditor, or any surveyor of lands of that state, attested as aforesaid; and to any certificate of the Auditor of public accounts of that state as to the return of any real estate as delinquent, or sale thereof for taxes, or payment or nonpayment of taxes on forfeited or delinquent lands, or nonentry of lands on the books of the commissioner of the revenue: Provided, That such certificate of the Auditor as to the payment or nonpayment of taxes on forfeited or delinquent lands, or nonentry of such lands on the books of the commissioner of the revenue, be filed with the papers in any suit in relation to such lands, and notice thereof be given to the opposite party or his attorney, at least forty days before the first day of the term at which it is offered as evidence.

WV Legislature

§57-1-10. Certificate of clerk of county court as to certain tax records.

The certificate of the clerk of any county court of the entry or nonentry of any tract of land for taxation on the land books of any county wherein the land ought to have been charged or of the delinquency of any such land for the nonpayment of taxes charged thereon, and the amount of the taxes charged as delinquent, or such clerk's certificate of the sale of such land for the nonpayment of taxes, shall, in any suit in relation to such lands, be prima facie evidence of what is stated in such certificate: Provided, That it be filed with the papers of said suit and notice thereof given to the opposite party or his attorney at least twenty days before the first day of the term at which it is to be offered as evidence. When a certificate purports to be signed by any such clerk, it may be admitted as evidence without proof of his signature.

WV Legislature

§57-1-11. Withdrawal of original paper filed in cause; retention of copy.

The court in the clerk's office whereof there is an original paper filed in a cause (although decided) may, for good cause, order it to be delivered to any person, retaining in its stead a certified copy thereof, and make any order to prevent the improper use of the original.

WV Legislature

§57-1-12. Authentication of records and proceedings of courts of United States or other states; full faith and credit.

The records and judicial proceedings of any court of the United States, or of any state or territory, or of any country subject to the jurisdiction of the United States, shall be proved or admitted in any court in this state, by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice, or presiding magistrate, that the said attestation is in due form. And the said records and judicial proceedings, so authenticated, shall have such faith and credit given to them in every court within this state as they have by law or usage in the courts of the state or jurisdiction from which they are taken. Full faith and credit for child support orders shall be accorded by this state in conformity with federal law.

WV Legislature

§57-1-13. Authentication of public records not pertaining to courts; full faith and credit.

All records and exemplifications of books, which may be kept in any public office of the United States, or of any state, or territory, or of any country subject to the jurisdiction of the United States, not appertaining to a court, shall be proved or admitted in any court or office in this state by the attestation of the keeper of the said records or books, and the seal of his office annexed, if there be a seal, together with a certificate of the presiding justice of the court of the county, parish or district in which such office may be kept, or of the Governor, or Secretary of State, the chancellor or keeper of the great seal, of the state or territory or country, that the said attestation is in due form, and by the proper officer. If the said certificate is given by the presiding justice of a court, it shall be further authenticated by the clerk or prothonotary of the said court, who shall certify, under his hand and the seal of his office, that the said presiding justice is duly commissioned and qualified; or, if given by such Governor, secretary, chancellor, or keeper of the great seal, it shall be under the great seal of the state, territory, or country, aforesaid, in which it is made: Provided, however, That printed copies of schedules and classifications and tariffs of rates, fares and charges, and supplements thereto, filed with the interstate commerce commission, which show respectively an interstate commerce commission number, which may be stated in abbreviated form, as I.C.C. No....., and an effective date, may be received in evidence without certification, and shall be presumed to be correct copies of the original schedules, classifications, tariffs and supplements on file with the interstate commerce commission. And the said records and exemplifications, so authenticated, shall have such faith and credit given to them in every court and office within this state as they have by law or usage in the courts or offices of the state, territory, or country, as aforesaid, from which they are taken.

WV Legislature

§57-1-14. Authentication of foreign deeds, powers of attorney, policies of insurance, etc.

Every deed or power of attorney executed out of this state, the acknowledgment or proof of which is certified so that it might be admitted to record under article one, chapter thirty-nine of this code, and every policy of insurance, charter party, copy from a record in any foreign court or from a register of births and marriages in any place out of the United States, if it be attested by a notary public, under his seal of office, that such policy, charter party, record or register was made, entered or kept in due form according to the law of the place in which it was made, entered or kept, and that such copy is true, and the official character of such notary be certified to by any court of record, or the mayor or other chief magistrate of any county, city, town or borough, or under the great seal of the state, kingdom, province, an island or colony in which such notary may reside, shall be evidence in any court in this state.

WV Legislature