WEST VIRGINIA CODE CHAPTER 58 ARTICLE 5

WV Legislature

§58-5-1. When appeal lies.

(a) A party to a civil action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court or from an order of any circuit court constituting a final judgment as to one or more but fewer than all claims or parties upon an express determination by the circuit court that there is no just reason for delay and upon an express direction for the entry of judgment as to such claims or parties: *Provided*, That an appeal of a final order or judgment of a circuit court entered after June 30, 2022, shall be to the Intermediate Court of Appeals, as required by §51-11-1 *et seq*. of this code.

(b) As provided in §51-11-10 of this code, a party in interest may petition the Supreme Court of Appeals for appeal of a final order or judgment of the Intermediate Court of Appeals in accordance with rules promulgated by the Supreme Court of Appeals.

(c) The defendant in a criminal action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court in which there has been a conviction, or which affirms a conviction obtained in an inferior court.

WV Legislature

§58-5-2. Certification to Supreme Court of Appeals.

Any question of law, including, but not limited to, questions arising upon the sufficiency of a summons or return of service, upon a challenge of the sufficiency of a pleading or the venue of the circuit court, upon the sufficiency of a motion for summary judgment where such motion is denied, or a motion for judgment on the pleadings, upon the jurisdiction of the circuit court of a person or subject matter, or upon failure to join an indispensable party, may, in the discretion of the circuit court in which it arises, be certified by it to the Supreme Court of Appeals for its decision, and further proceedings in the case stayed until such question shall have been decided and the decision thereof certified back. The procedure for processing questions certified pursuant to this section shall be governed by rules of appellate procedure promulgated by the Supreme Court of Appeals.

WV Legislature

§58-5-3. Presentation of petition.

A party desiring to appeal, seeking the original jurisdiction of the Supreme Court of Appeals, or seeking an opinion of the court on certified questions may file a petition in accordance with rules of appellate procedure promulgated by the Supreme Court of Appeals.

WV Legislature

§58-5-4. Time for appeal.

The time for filing a notice of appeal, perfecting an appeal, and filing related documents with the Intermediate Court of Appeals and the Supreme Court of Appeals shall be in accordance with rules promulgated by the Supreme Court of Appeals.

WV Legislature

§58-5-5. Stay of proceedings pending appeal; supersedeas bond; post-conviction bail.

A petition for stay of proceedings pending appeal, supersedeas bond or post-conviction bail relief shall be filed and processed in accordance with rules of appellate procedure promulgated by the Supreme Court of Appeals.

WV Legislature

§58-5-6. Filing of petition.

Petitions for appeal shall be filed and processed in accordance with rules of appellate procedure promulgated by the Supreme Court of Appeals.

WV Legislature

§58-5-7. Contents of transcript of record.

The contents of the transcript of record shall be governed in accordance with rules of appellate procedure promulgated by the Supreme Court of Appeals.

WV Legislature

§58-5-8.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-9.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-10.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-11.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-12.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-13.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-14. Appeal bond generally; limitation on amount.

(a) When required by the court, an appeal shall not take effect until bond is given by the appellants or petitioners, or one of them, or some other person, in a penalty to be fixed by the court or judge by or in which the appeal is allowed or entered with condition: If a supersedeas be awarded, to abide by and perform the judgment and to pay to the opposite party, and to any person injured, all such costs and damages as they, or either of them, may incur or sustain by reason of said appeal, in case such judgment, or such part, be affirmed, or the appeal be dismissed, and also, to pay all damages, costs and fees, which may be awarded against or incurred by the appellant or petitioners; and if it is an appeal from a judgment dissolving an injunction, or dismissing a bill of injunction, with a further condition, to indemnify and save harmless the surety in the injunction bond against loss or damage in consequence of his or her suretyship; and with condition when no supersedeas is awarded to pay such specific damages and such costs and fees as may be awarded or incurred: Provided, That whenever an appeal is awarded in any action or suit wherein a judgment for the payment of money has been entered against an insured in an action which is defended by an insurance corporation, or other insurer, on behalf of the insured under a policy of insurance, the limit of liability of which is less than the amount of said judgment, execution on the judgment to the extent of the policy coverage shall be stayed until final determination of such appeal and no execution shall be issued, or action brought, maintained or continued against such insured, insurance corporation or other insurer, for the amount of such judgment so stayed, by either the injured party, the insured or the legal representative, heir or assigns of any of them, during the pendency of such proceeding, provided such insurance corporation, or other insurer, shall:

(1) File with the clerk of the court in which the judgment was entered a sworn statement of one of its officers describing the nature of the policy and the amount of coverage thereof;

(2) Give or cause to be given by the judgment debtor or some other person for him or her a bond in a penalty to be fixed by the court or judge by or in which the appeal is allowed or entered, not to exceed the amount of such insurance coverage set out in the sworn statement above required, with condition to pay the amount of such coverage upon said judgment if the judgment or such part is affirmed or the appeal is dismissed, plus interest on said sum and cost;

(3) Serve a copy of such sworn statement and bond upon the judgment creditor or his or her attorney;

(4) Deliver or mail to the insured at the latest address of the insured appealing upon the records of such insurance corporation, or other insurer, written notice that execution on such judgment to the extent that it is not covered by such insurance is not stayed in respect to the insured: Provided, That the filing of a bond by the insured or someone for him or her, conditioned upon the payment of the balance of the judgment and interest not stayed by the insured as aforesaid if the judgment is affirmed or the appeal is dismissed, shall stay execution on the balance of said judgment not covered by such insurance: Provided,

however, That the filing of such statement and bond hereunder by an insurance corporation or other insurer shall not thereby make such insurance corporation or other insurer a party to such action, either in the trial court or in the appellate court.

(b) Except for bonds required under section four, article eleven-a, chapter four of this code, an appeal bond required by a court in accordance with this section may not exceed the amount of the total judgment, which includes the actual judgment, plus costs, interest and fees: Provided, That for all verdicts returned or judgments rendered on or after July 1, 2007, in which the judgment exceeds $50 million, the court shall require an appeal bond of no more than $50 million. For purposes of this subsection, multiple judgments resulting from cases that have been consolidated or aggregated for purpose of trial proceedings shall be treated as a single judgment.

(c) If the appellee proves by a preponderance of the evidence that the appellant is dissipating or diverting assets outside the ordinary course of business, thereby impairing the appellant's ability to pay the ultimate judgment, the court is not bound by the limitations stated in subsection (b) of this section and may set the appeal bond at any amount not to exceed the total judgment.

(d) The maximum amount allowed for a bond under subsection (b) of this section shall be adjusted on July 1, 2012, by an amount to reflect the annual aggregate percentage change in the Federal Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor for the immediately preceding five years, and shall thereafter be adjusted on July 1, every five years after that initial adjustment by an amount determined by the aggregate change in the Federal Consumer Price Index for All Urban Consumers since the previous adjustment.

WV Legislature

§58-5-15.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-16.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-17.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-18.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-19.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-20.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-21.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-22.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-23.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-24.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-25.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-26.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-27.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-28.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-29.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature

§58-5-30. Appeal by state of judgment quashing indictment.

Whenever in any criminal case an indictment is held bad or insufficient by the judgment of a circuit court, the state, on the application of the Attorney General or the prosecuting attorney, may appeal such judgment to the Supreme Court of Appeals. No such appeal shall be allowed unless the state presents its petition therefor to the Supreme Court of Appeals within thirty days after the entry of such judgment. No such judgment shall finally discharge, or have the effect of finally discharging, the accused from further proceedings on the indictment unless the state fails, within such period of thirty days, to file a petition for appeal with the clerk of the court in which judgment was entered; but after the entry of such judgment or order the accused shall not be kept in custody or required to give bail pending the hearing and determination of the case by the Supreme Court of Appeals.

Except as herein otherwise provided, all the provisions of the other sections of this article shall, so far as appropriate, be applicable to a petition for an appeal under this section, and to all subsequent proceedings thereon in the Supreme Court of Appeals in case such appeal is granted.

WV Legislature

§58-5-31.

Repealed.

Acts, 1998 Reg. Sess., Ch. 110.

WV Legislature