WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1945

ENROLLED

HOUSE BILL No. 156

(By Mr. Davis and Mr. Moore, by Request)

PASSED February 23, 1945

In Effect 90-days from Passage
AN ACT to amend article four, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding a new section thereto to be designated section thirty-one, pertaining to the ascertainment and designation of boundary lines between coterminous landowners.

Be it enacted by the Legislature of West Virginia:

That article four, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding a new section thereto to be designated section thirty-one; to read as follows:

Section 31. How Boundary Line or Lines of Real Estate May Be Ascertained and Established; Petition May Be Filed for That Purpose.—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 co-terminous 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 pre-
ceding 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Charles C. Morris
Chairman Senate Committee

Jack Strickle
Chairman House Committee

Originated in the

House

Takes effect 90 days from passage.

Frank W. Wise
Clerk of the Senate

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Clerk of the House of Delegates

Donald M. Vickery
President of the Senate

John E. Amos
Speaker House of Delegates

The within

Approved this the 2nd

day of March, 1945.

Governor.