

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945



ENROLLED

HOUSE BILL No. 254

*Committed Substitute for*

(By Mr. *Originating in House Committee on the Judiciary*)



PASSED March 8 1945

In Effect From Passage

*1552*

*3-12*

## ENROLLED

COMMITTEE SUBSTITUTE FOR

# House Bill No. 254

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[Originating in the House Committee on the Judiciary.]

[Passed March 8, 1945; in effect from passage.]

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AN ACT to amend and reenact section fourteen, article five, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to appeal bonds.

*Be it enacted by the Legislature of West Virginia:*

That section fourteen, article five, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 14. *Appeal Bond.*—Except when an appeal, writ  
2 of error or supersedeas is proper to protect the estate of  
3 a decedent, convict or insane person, the same shall not  
4 take effect until bond is given by the appellants or peti-  
5 tioners, or one of them, or some other person, in a penalty  
6 to be fixed by the court or judge by or in which the ap-  
7 peal, writ of error or supersedeas is allowed or entered

8 with condition: If a supersedeas be awarded, to abide by  
9 and perform the judgment, decree or order of affirm-  
10 ance, and to pay to the opposite party, and to any person  
11 injured all such costs and damages as they, or either of  
12 them, may incur or sustain by reason of said appeal, in  
13 case such judgment, decree or order, or such part, be  
14 affirmed, or the appeal, writ of error or supersedeas be  
15 dismissed, and also, to pay all damages, costs and fees,  
16 which may be awarded against or incurred by the appel-  
17 lant or petitioners; and if it be an appeal from an order  
18 or decree dissolving an injunction, or dismissing a bill of  
19 injunction, with a further condition, to indemnify and  
20 save harmless the surety in the injunction bond against  
21 loss or damage in consequence of his suretyship; and with  
22 condition when no supersedeas is awarded to pay such  
23 specific damages, and such costs and fees as may be  
24 awarded or incurred: *Provided*, That whenever a writ of  
25 error, appeal or supersedeas shall be awarded in any ac-  
26 tion or suit wherein a judgment or decree for the pay-  
27 ment of money has been entered against an insured in an  
28 action which is defended by an insurance corporation, or

29 other insurer, on behalf of the insured under a policy of  
30 insurance, the limit of liability of which is less than the  
31 amount of said judgment, execution on the judgment to the  
32 extent of the policy coverage shall be stayed until final  
33 determination of such appeal, writ of error or supersedeas,  
34 and no execution shall be issued, or action brought, main-  
35 tained or continued against such insured, insurance cor-  
36 poration, or other insurer, for the amount of such judg-  
37 ment or decree so stayed, by either the injured party, the  
38 insured, or the legal representative, heir or assigns of any  
39 of them, during the pendency of such proceeding, pro-  
40 vided such insurance corporation, or other insurer, shall:

41 1. File with the clerk of the court in which the judg-  
42 ment was entered, a sworn statement of one of its offi-  
43 cers, describing the nature of the policy and the amount  
44 of coverage thereof;

45 2. Give or cause to be given by the judgment debtor or  
46 some other person for him a bond in a penalty to be fixed  
47 by the court or judge by or in which the appeal, writ of  
48 error or supersedeas is allowed or entered, not to exceed  
49 the amount of such insurance coverage set out in the

50 sworn statement above required, with condition to pay  
51 the amount of such coverage upon said judgment if the  
52 judgment or decree or such part be affirmed or the ap-  
53 peal, writ of error or supersedeas be dismissed, plus in-  
54 terest on said sum and costs;

55 3. Serve a copy of such sworn statement and bond upon  
56 the judgment creditor or his attorney;

57 4. Deliver or mail to the insured at the latest address  
58 of the insured appearing upon the records of such in-  
59 surance corporation, or other insurer, written notice that  
60 execution on such judgment to the extent that it is not  
61 covered by such insurance is not stayed in respect to the  
62 insured: *Provided further*, That the filing of a bond by the  
63 insured or someone for him, conditioned upon the pay-  
64 ment of the balance of the judgment or decree and inter-  
65 est not stayed by the insured as aforesaid if the judgment  
66 or decree be affirmed or the appeal, writ of error or super-  
67 sedeas be dismissed, shall stay execution on the balance  
68 of said judgment not covered by such insurance; And,  
69 *Provided further*, That the ~~filing~~ filing of such statement and  
70 bond hereunder by an insurance corporation or other in-

(filing)  
etc.  
9/12/11  
etc.

71 surer shall not thereby make such insurance corporation  
72 or other insurer a party to such action, either in the trial  
73 court or in the appellate court.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Charles C Morris  
Chairman Senate Committee

Ed G. Goyette, Jr.  
Chairman House Committee

Originated in the House

Takes effect From passage.

J. Howard Myers  
Clerk of the Senate

J. Raliff  
Clerk of the House of Delegates

Orwell M. Tickers  
President of the Senate

John E. Amos  
Speaker House of Delegates

The within Approved this the 12<sup>th</sup>

day of March, 1945.

Robert M. Madsen  
Governor.



Filed in the office of the Secretary of State  
of West Virginia MAR 12 1945

Wm. S. O'BRIEN,  
Secretary of State