WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1959

ENROLLED

HOUSE BILL No. 400

(By Mr. [Name]"

PASSED [March 12] 1959

In Effect [90 days from] Passage

Filed in Office of the Secretary of State of West Virginia  MAR 20 1959
JOE F. BURDETT
SECRETARY OF STATE
ENROLLED

House Bill No. 400
(By Mr. Bachmann and Mr. Goshorn)

[Passed March 12, 1959; in effect ninety days from passage.]

An ACT to amend and reenact section eight, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article seven by adding thereto a new section, designated section eight-a, all relating to the survivability and revivability of causes of action for wrongful death, and for injuries to property and to the person not resulting in death, in addition to the causes of action which survive at common law, and prescribing procedures and limitations concerning the same.

Be it enacted by the Legislature of West Virginia:

That section eight, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that said article seven
be further amended by adding thereto a new section, designated section eight-a, all to read as follows:

Section 8. **When Action Not to Abate; Survival of Action for Personal Injury Against Wrongdoer.**—Where an action is brought by a person injured for damage caused by the wrongful act, neglect or default of any person or corporation, and the person injured dies as a result thereof pending the action, the action shall not abate by reason of his death but, his death being suggested, it may be revived in the name of his personal representative, and the declaration and other pleadings shall be amended so as to conform to an action under sections five and six of this article, and the case proceeded with as if the action had been brought under said sections. But in such case there shall be but one recovery for the same injury.

Sec. 8-a. **Which Actions Survive; Limitations; Which Law Governs.**—(a) In addition to the causes of action which survive at common law, causes of action for injuries to property, real or personal, or injuries to the person and not resulting in death, or for deceit or fraud,
also shall survive; and such actions may be brought notwithstanding the death of the person entitled to recover or the death of the person liable.

(b) If any such action is begun during the lifetime of the injured party, and within the period of time permissible under the applicable statute of limitations as provided by articles two and two-a of this chapter, (either against the wrongdoer or his personal representative), and such injured party dies pending the action it may be revived in favor of the personal representative of such injured party and prosecuted to judgment and execution against the wrongdoer or his personal representative.

(c) If the injured party dies before having begun any such action and it is not at the time of his death barred by the applicable statute of limitations under the provisions of articles two and two-a of this chapter, such action may be begun by the personal representative of the injured party against the wrongdoer or his personal representative and prosecuted to judgment and execution against the wrongdoer or his personal representative.

Any such action shall be instituted within the same period
of time that would have been applicable had the injured party not died.

(d) If any such action mentioned in the preceding subsections (a), (b) and/or (c) shall have been begun against the wrongdoer and he or she dies during the pendency thereof, it may be revived against the personal representative of the wrongdoer and prosecuted to judgment and execution.

(e) The applicable provisions of chapter fifty-six, article eight of the code of West Virginia shall govern the actions hereinabove mentioned, with reference to their abatement, revival, discontinuance, reinstatement and substitution of parties.

(f) Nothing contained in this section shall be construed to extend the time within which an action for any other tort shall be brought, nor to give the right to assign a claim for a tort not otherwise assignable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Eudora Andrews
Chairman House Committee

Originated in the House of Delegates.

Takes effect 90 days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 20th day of March, 1939.

Governor