

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1959**

---

**ENROLLED**

*committee substitute for*

**SENATE BILL NO. 13**

(By Mr. ....)

---

PASSED March 14 1959

In Effect From Passage



Filed in Office of the Secretary of State  
of West Virginia **MAR 20 1959**

**JOE F. BURDETT**  
SECRETARY OF STATE

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**Senate Bill No. 13**

---

[Passed March 14, 1959; in effect from passage.]

---

AN ACT to amend article one, chapter forty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section twenty, relating to awarding a cash sum in lieu of dower.

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

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

Section 20. *Proceedings in Which the Court may Award*  
2 *a Cash Sum in Lieu of Dower in Kind.*—Subject to the

3 provisions of section eleven of this article, in any pro-  
4 ceeding for the assignment of dower hereafter brought  
5 pursuant to the provisions of sections twelve or thirteen  
6 of this article, if the court be of the opinion that the real  
7 estate involved in such proceeding is indivisible or that  
8 the value thereof will be enhanced or preserved by not  
9 assigning dower in kind, or that the surviving spouse may  
10 be fully compensated for such dower and his or her in-  
11 terest will not be adversely affected by awarding the cash  
12 value of such dower to him or her in lieu of dower in  
13 kind, and finds that the persons entitled to the real estate  
14 subject to such dower, or any of them, are willing and  
15 able, either from the remaining unencumbered personal  
16 estate distributable to them or from any other source, to  
17 pay in cash to such surviving spouse a gross sum in cash  
18 equal to the value of such dower, the court shall order that  
19 in lieu of assignment of dower in kind payment shall be  
20 made to the surviving spouse of cash in an amount equal  
21 to the value of such dower computed as provided in article  
22 two of this chapter. Unless all parties owning an interest  
23 in said real estate and the surviving spouse are able to

24 agree upon the value of the real estate subject to such  
25 dower, the court, or the judge thereof in vacation, shall  
26 take evidence upon the value thereof, in the same manner  
27 as in other chancery causes involving the value of real  
28 estate, and shall find the fair market value of such real  
29 estate, upon which the cash value of the dower shall be  
30 computed and determined. The value of the real estate  
31 shall be determined as of the date of entering the decree  
32 or order of the court directing payment of a gross sum  
33 of cash in lieu of dower in kind, and the sum finally de-  
34 termined to be the value of such dower shall bear interest  
35 from the same date until paid at the rate of six per cent  
36 per annum. Payment of such sum and interest shall be  
37 made on such date as may be fixed by the court ade-  
38 quately to protect the interests of such surviving spouse.  
39 Upon such payment the court shall order a release of the  
40 dower interest to be executed by such spouse if not under  
41 disability, or if he or she be under disability or fail or  
42 refuse to execute such release, then by a special commis-  
43 sioner to be appointed by the court for the purpose, and  
44 such a release executed by such special commissioner

45 shall operate to divest from such surviving spouse all  
46 dower in said real estate and transfer the same to the  
47 grantee in the instrument releasing such dower. In the  
48 event the persons directed to pay such gross sum in lieu  
49 of dower fail to pay the same within the time allowed by  
50 the court, the court shall proceed to assign dower in kind.

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

*Tom Jasper*  
Chairman Senate Committee

*Eudora Andrews*  
Chairman House Committee

Originated in the Senate.

Takes effect From passage.

*J. Howard Meyer*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*Ralph J. Bean*  
President of the Senate

*F. K. Paulay*  
Speaker House of Delegates

The within approved this the 20th  
day of March, 1959.

*W. H. Anderson*  
Governor

