

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1961

186
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ENROLLED

SENATE BILL NO. 186

(By Mr. Comm. Sub. for)

PASSED March 10th, 1961

In Effect ninety days from Passage

Filed in Office of the Secretary of State
of West Virginia MAR 17 1961
JOE F. BURDETT
SECRETARY OF STATE

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 186

(Originating in the Committee on the Judiciary)

[Passed March 10, 1961; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article two, chapter fifty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to security by nonresidents for costs.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Security by Nonresidents for Costs.*—In any
2 action (except where such poor person is plaintiff) there

3 may be a suggestion filed with the court or the clerk
4 thereof, by a defendant or any other officer of the court,
5 that the plaintiff is not a resident of this state, and that
6 security is required of him. After such suggestion is filed,
7 all proceedings in the action shall be suspended until the
8 security, hereinafter provided, has been given. The party
9 giving the security shall serve written notice thereof on
10 all other parties to the action, in the manner provided by
11 the West Virginia rules of civil procedure for trial courts
12 of record, and the action shall, from the date of service
13 or the date of acceptance of service of such notice, pro-
14 ceed in accordance with such rules: *Provided, however,*
15 That any time periods therein shall be tolled from the
16 date the suggestion was filed until the date the notice of
17 security is served or accepted. After sixty days from such
18 suggestion, unless the time for filing such security be
19 extended by the court for good cause shown, the action
20 shall by order of the court be dismissed, unless before the
21 dismissal the plaintiff be proved to be a resident of the
22 state, or security be given before such court, or the clerk
23 thereof, for payment of the costs which may be awarded

24 to the defendant, in the trial court and in all appellate
25 courts, and of the fees due, or to become due, in such ac-
26 tion, to the officers of any such court or courts. The se-
27 curity shall be by cash or bond payable to the state; and
28 if by bond there need be only one obligor therein, if he be
29 sufficient, but, unless the obligor be a surety corporation
30 or bonding corporation which has complied with the laws
31 of this state for the purpose of doing business therein, at
32 least one of the obligors shall be a resident of this state.
33 The court before whose clerk such bond is given may, on
34 motion by a defendant or any other officer thereof, give
35 judgment for so much as he is entitled to by virtues of
36 such bond.

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

Robert Davis, Jr.
Chairman Senate Committee

Mr. H. H. Withrow
Chairman House Committee

Originated in the Senate.

Takes effect ninty days from passage.

Howard Myers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within approved this the 17th
day of March, 1961.

Wm. Barr
Governor



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JOE F. BURDETT
SECRETARY OF STATE