

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1967

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**ENROLLED**

SENATE BILL NO. 359

(By Mr. Martin)

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PASSED March 11, 1967

In Effect April 15, 1967 Passage



FILED IN THE OFFICE  
ROBERT D. BAILEY  
SECRETARY OF STATE  
THIS DATE 3-21-67

658 #

**ENROLLED**  
**Senate Bill No. 359**

(By MR. MARTIN)

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[Passed March 11, 1967; in effect April 15, 1967.]

AN ACT to amend and reenact section ten, article two, chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the proceedings on the report of the commissioners in eminent domain proceedings, trial by jury, and admitting the value of leaseholds into evidence.

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

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

**ARTICLE 2. PROCEDURE.****§54-2-10. Proceedings on report; trial by jury.**

Within ten days after the report required by the provisions of section nine of this article is returned and filed, either party may file exceptions thereto, and demand that the question of the compensation, and any damages to be paid, be ascertained by a jury, in which case a jury of twelve freeholders shall be selected and impaneled for the purpose, as jurors are selected in civil actions. But no person shall sit on such jury who would not be eligible to serve as a condemnation commissioner in the proceeding. The cause shall be tried as other causes in such court, except that any person who served as a condemnation commissioner in the proceeding shall not be examined as a witness in regard to just compensation or any damages. The jury, ascertaining the damages or compensation to which the owner of the property, or interest or right therein, proposed to be taken is entitled, shall be governed by sections nine and nine-a of this article except that a view of the property proposed to be taken shall not be required: *Provided*, That in the

20 event a demand therefor is made by a party in interest,  
21 the jury shall be taken to view the property, and in such  
22 case, the judge presiding at the trial shall go with the  
23 jury and shall control the proceedings: *Provided, how-*  
24 *ever,* That the value of any leasehold on the property  
25 proposed to be taken, that must be paid by the owner  
26 thereof to his tenant or tenants, shall be admissible in  
27 evidence in any hearing before the condemnation com-  
28 missioners or in the trial by jury.

29 If no exceptions be filed to such report, and neither  
30 party demand a trial by jury as aforesaid, the court, or  
31 the judge thereof in vacation, unless good cause be shown  
32 against it, or it be defective or erroneous on its face, shall  
33 confirm such report, and order it to be recorded in the  
34 proper order book of the court.

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

William Tompkins  
Chairman Senate Committee

Clayton C. Davidson  
Chairman House Committee

Originated in the Senate.

To take effect April 15, 1967.

J. Howard Myers  
Clerk of the Senate

C. Blankenship  
Clerk of the House of Delegates

Howard W. Carson  
President of the Senate

H. Laban White  
Speaker House of Delegates

The within approved this the 17  
day of March, 1967.

Stuart C. Smith  
Governor

**PRESENTED TO THE  
GOVERNOR**

**Date** 8/17/67

**Time** 3:25 P.M.