

✓

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972

ENROLLED

SENATE BILL NO. 62

(By Mr. PALUMBO)

PASSED FEBRUARY 26, 1972

In Effect FROM Passage



62

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-6-72

ENROLLED

Senate Bill No. 62

(By MR. PALUMBO)

[Passed February 26, 1972; in effect from passage.]

AN ACT to amend and reenact section five, article five-a, chapter thirty-eight of the code of West Virginia, ~~one~~ one thousand nine hundred thirty-one, as amended; and to amend and reenact section nine, article five-b of said chapter, requiring the payment over every ninety days during the life of any suggestee execution or renewal suggestee execution of any money payable, held or retained under such suggestee execution or renewal suggestee execution.

Be it enacted by the Legislature of West Virginia:

That section five, article five-a, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section nine, article five-b of said chapter be amended and reenacted, all to read as follows:

ARTICLE 5A. SUGGESTIONS OF SALARY AND WAGES OF PERSONS ENGAGED IN PRIVATE EMPLOYMENT.

§38-5A-5. Service of suggestee execution upon suggestee; payments in satisfaction of execution; action for failure or refusal to pay; payments to be made every ninety days.

1 A suggestee execution issued under this article against
2 salary or wages shall be served upon the suggestee in the
3 same manner as a summons commencing an action is
4 served. It shall be the duty of any person upon whom
5 such an execution, bearing the notation required by sec-
6 tion four hereof, shall be served, and who shall at that
7 time be indebted or who shall thereafter become indebted
8 to the judgment debtor named in the execution for salary
9 or wages, and while the execution shall remain a lien

10 upon said indebtedness, to pay over to the officer serving
11 the same or to the judgment creditor such amount of said
12 indebtedness as is required by section three hereof during
13 the life of the execution until it shall be wholly satisfied.
14 The sums so paid shall be deducted from the amounts
15 payable to the judgment debtor and such payment shall
16 be a bar to any action by him therefor.

17 The suggestee upon whom the execution or any re-
18 newal execution is served shall once every ninety days
19 during the life of such execution and any renewal execu-
20 tion pay over to the officer who served the same or to
21 the judgment creditor the full amount of money held or
22 retained pursuant to such execution or renewal execu-
23 tion during the preceding ninety days.

24 If the suggestee upon whom the execution shall be
25 served, shall fail or refuse to pay over to the officer
26 serving the execution or to the judgment creditor the
27 required percentage of the indebtedness, as aforesaid, he
28 shall be liable to an action therefor by the judgment
29 creditor named in the execution and the amount re-
30 covered in the action shall be applied in satisfaction of
31 the execution.

**ARTICLE 5B. SUGGESTION OF THE STATE AND POLITICAL
SUBDIVISIONS; GARNISHMENT AND SUGGES-
TION OF PUBLIC OFFICERS.**

**§38-5B-9. Payments in satisfaction of execution; liability of
officer for payment or failure to pay; action
against political subdivision failing to pay; dec-
laratory judgment as to right against state.**

1 It shall be the duty of the proper officer, after service
2 of an execution under this article, bearing the notation
3 required by section four hereof if directed against salary
4 or wages, to pay to the court or the clerk of the court
5 who issued the execution or to the officer presenting
6 the same such sums as may be or shall thereafter be-
7 come due to the judgment debtor from the suggestee,
8 or the amount thereof prescribed in section three of
9 this article in the case of salary or wages, during the
10 life of the execution until it shall be wholly satisfied.
11 The proper officer or suggestee upon whom the execu-

12 tion or any renewal execution is served shall once every
13 ninety days during the life of such execution and any
14 renewal execution pay over as aforesaid the full amount
15 of money payable, held or retained pursuant to such
16 execution or renewal execution during the preceding
17 ninety days.

18 A public officer who shall either pay over or fail or
19 refuse to pay over, in satisfaction of such execution,
20 money due the judgment debtor shall be personally
21 liable therefor only if he shall have acted in bad faith,
22 even though such payment or failure or refusal to pay
23 shall have been in violation of the rights of one or more
24 parties in interest.

25 If a political subdivision be the suggestee and shall fail
26 or refuse to pay over to the officer who served the execu-
27 tion the amount due the judgment debtor or the re-
28 quired percentage thereof in the case of salary or wages,
29 it shall be liable to an action therefor by the judgment
30 creditor named in the execution and the amount re-
31 covered in the action shall be applied toward the pay-
32 ment of the execution.

33 No judgment may be recovered against the state as
34 suggestee but a judgment creditor may bring an action
35 against the proper officer for a declaratory judgment
36 establishing his right to have sums due or to become
37 due to his judgment debtor or from the state or a state
38 agency applied in satisfaction of a suggestee execution
39 issued on his judgment pursuant to this article. Such
40 an action may be brought against the state auditor only
41 in the circuit court of Kanawha county. Costs shall be
42 in the discretion of the court.

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

Fred L. Bass

Chairman Senate Committee

Phyllis Rutledge

Chairman House Committee

Originated in the Senate.

To take effect from passage.

Howard W. Cannon

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

Elliott

President of the Senate

Lewis H. Mann

Speaker House of Delegates

The within *approved* this the *6th*
day of *March* 1972.

Arch A. Shouse, Jr.

Governor



PRESENTED TO THE
GOVERNOR

Date 3/1/72

Time 4:00 p.m.

MAR 6 4 1972

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA