

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1977



ENROLLED

SENATE BILL NO. 56

(By Mr. Stephoe)



PASSED March 2, 1977

In Effect minutes days from Passage



ENROLLED
Senate Bill No. 56

(By MR. STEPTOE)

[Passed March 2, 1977; in effect ninety days from passage.]

AN ACT to amend and reenact section twelve-a, article two, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to number of times legal advertisement must be published for summary proceeding to sell or lease estate subject to future interests when nonresidents or unknown or unascertainable parties are defendants.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. DISPOSITION OF ESTATES SUBJECT TO FUTURE INTERESTS.

§36-2-12a. Summary proceedings for sale or lease; petition.

1 In addition to the proceedings authorized by the first
2 section of this article, any person having any interest
3 mentioned in section two of this article in the personal
4 property, land, timber, oil, gas, coal or other minerals
5 sought to be sold, leased or otherwise conveyed, may apply
6 by petition, in a summary way, to the circuit court, or to
7 any court of concurrent jurisdiction with the circuit
8 court, of the county in which the estate proposed to be
9 sold, leased or otherwise conveyed, or some part thereof,
10 may be. Such petitions shall describe the property sought
11 to be sold, leased or otherwise conveyed with reasonable
12 certainty and shall set forth the names of all persons
13 interested in such property, together with their respective

14 interests or estates, either vested, contingent or executory,
15 so far as is known by the plaintiff. Such petition shall
16 also set forth the facts which, in the opinion of the plain-
17 tiff, would justify the sale, lease or other conveyance of
18 such property. The petition shall be verified by the oath
19 of the plaintiff or one of the plaintiffs, and all persons
20 interested shall be made defendants, and ten days' notice
21 shall be given to such defendants before such petition can
22 be heard: *Provided*, That in the case of nonresident de-
23 fendants, or unknown or unascertainable parties, or both,
24 an order of publication may be entered, on proper affi-
25 davit as in any other chancery proceeding, requiring
26 publication of such notice with respect to any nonresident
27 defendants, or any unknown or unascertainable parties,
28 or both, who may have or claim any interest or estate in
29 such property, as a Class III legal advertisement in com-
30 pliance with the provisions of article three, chapter fifty-
31 nine of this code, and the publication area for such
32 publication shall be the county in which the property or
33 the greater part of the property concerned is situate. Such
34 published notice, with the certificate of publication, when
35 filed with the record in said proceedings, shall be and
36 constitute valid and sufficient notice herein. All other
37 provisions of this article not inconsistent herewith shall
38 apply to and implement the procedures provided in this
39 section.

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

James L. Davis
Chairman Senate Committee

Dorence C. Christian
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J. C. Dillon Jr
Clerk of the Senate

V. A. Blankenship
Clerk of the House of Delegates

H. P. Goshulob
President of the Senate

Donald L. Kopp
Speaker House of Delegates

The within is approved this the 8
day of March, 1977.

John D. Rhyne
Governor



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OFFICE OF THE GOVERNOR

*Signed: March 8, 1977
3:30 p.m.*

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OF THE GOVERNOR
OF THE STATE