

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-29-81

Time _____

NO: 588

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981



ENROLLED
Committee Substitute for
SENATE BILL NO. 588

(By Mr. Beltner)



PASSED April 11 1981

In Effect ninety days from Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 588
(MR. BOETTNER, *original sponsor*)

[Passed April 11, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article seven, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to attachment; filing of affidavit; and providing for a pre-judgment hearing to ascertain sufficient facts in an action for any claim arising out of a contract or for damages for any wrong prior to seizure of property.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. ATTACHMENT.

§38-7-1. Filing of affidavit; prejudgment hearing; seizure of property.

1 In any civil action for the recovery of any claim or debt
2 arising out of contract, or to recover damages for any
3 wrong, the plaintiff, after service of the summons upon
4 the defendant, or at any time thereafter and before judg-
5 ment may have an order of attachment against the prop-
6 erty of the defendant, on filing with the clerk of the court
7 in which such action, proceeding or suit is about to be or
8 is brought, his own affidavit or that of some credible
9 person, stating the nature of the plaintiff's claim and the

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10 amount, at the least, which the affiant believes the plain-
11 tiff is justly entitled to recover in the action, proceeding
12 or suit, and also that the affiant believes that some one or
13 more of the grounds mentioned in the next following
14 section of this article ~~shall~~ exist for such attachment:
15 *Provided*, That in any action where the plaintiff shall
16 give bond for the purpose of having the officer take pos-
17 session of the personal property levied upon, as provided
18 in section eight of this article, such officer may not take
19 possession of the personal property attached under sec-
20 tion eight of this article unless and until a prejudgment
21 hearing shall have been held, for which proper notice
22 shall be given the defendant and which shall be held in
23 not less than five days nor more than ten days after the
24 filing of the affidavit; which hearing shall be held to
25 ascertain specific^s facts as to the nature of the obligation
26 under which the plaintiff claims a right to possession, and
27 to establish facts justifying the seizure, under one or more
28 of the grounds set forth in section two of this article.

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

R. P. Bayler
Chairman Senate Committee

Joseph E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Todd C. Willis
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Wm. A. Starnes
President of the Senate

John H. Sees, Jr.
Speaker House of Delegates

The within is approved this the 29
day of April, 1981.

John R. Rhyne
Governor



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OFFICE OF THE GOVERNOR

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SECY. OF STATE