

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-29-81

Time _____

No: 601

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

Committee Substitute
for SENATE BILL NO. 601

(By Mr. Boettner)



PASSED April 11 1981

In Effect ninety days from Passage

OFFICE
SECY. OF STATE

81 MAY 1 12:14

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COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 601

(MR. BOETTNER, *original sponsor*)

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

AN ACT to amend and reenact sections one and two, article six, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to providing for a prejudgment hearing in detinue actions to ascertain sufficient facts relating to the claim to possession; finding of fact by court or magistrate; bond; order for seizure.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. RECOVERY OF PERSONAL PROPERTY.

§55-6-1. Immediate recovery of possession of personal property; notice and prejudgment hearing.

1. If the plaintiff in a civil action, whether in a circuit court or
2 magistrate court, for the recovery of specific goods, chattels,
3 or intangible personal property, shall demand immediate
4 possession thereof, a prejudgment hearing shall be held in
5 not less than five nor more than ten days after service upon
6 the defendant of the summons, a verified complaint
7 describing said personal property, and a notice of the time,
8 place, and purpose of the prejudgment hearing. At the
9 prejudgment hearing an inquiry shall be held to determine:
10 (a) the nature of the right or contract under which the plaintiff
11 claims a right to immediate possession; and (b) the nature of
12 the defendant's right to retain possession thereof.

§55-6-2. Finding of fact by court or magistrate; bond; order for seizure.

1 If the court or magistrate shall conclude, upon the basis of
2 the evidence adduced at said prejudgment hearing, that there
3 is a substantial probability that the plaintiff will prevail upon
4 trial of the action upon the merits, the court or magistrate
5 may order that, upon the plaintiff's execution of a bond, with
6 good security to be approved by the clerk of the circuit court
7 or the magistrate and delivered to said clerk or magistrate in a
8 penalty at least double the value of the property claimed,
9 payable to the defendant and with condition to pay all costs
10 and damages which may be awarded against the plaintiff, or
11 sustained by any person by reason of said civil action and to
12 have the property so claimed forthcoming to answer any
13 judgment or order of the court or magistrate in said civil
14 action, the property claimed, or any part thereof described or
15 designated by the court or magistrate, be seized by and taken
16 into the possession of a designated officer.

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

R. R. Baylor
Chairman Senate Committee

Jonny E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Joseph C. Wallis
Clerk of the Senate

Carla Blankenship
Clerk of the House of Delegates

Walter S. Rouse
President of the Senate

Charles H. See, Jr.
Speaker House of Delegates

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

John R. Rhyne
Governor

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