

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-29-81

Time \_\_\_\_\_

no: 592

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1981



**ENROLLED**

SENATE BILL NO. 592

(By Mr. Bettner)



PASSED April 9, 1981

In Effect thirty days from Passage



**ENROLLED**  
**Senate Bill No. 592**

(By MR. BOETTNER)

[Passed April 9, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article four, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to permitting a party in any trial in magistrate court involving the possession, use or control of rental property to plead, prove and obtain judgment for rent due and owing.

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

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

**ARTICLE 4. PROCEDURE BEFORE TRIAL.**

**§50-4-5. Return date in civil action; setting of trial date; failure to appear or notify.**

1 Except in matters involving unlawful entry and detainer,  
2 each summons in a civil action shall notify the defendant that  
3 he must appear within twenty days after service of the  
4 summons upon him or that he must otherwise notify the  
5 magistrate court by that time that he wishes to contest the  
6 matter. In matters involving unlawful entry and detainer such  
7 appearance or notification shall be required within five days  
8 after service of the summons.

9 If the magistrate court is notified by the defendant that he  
10 wishes to contest the matter a trial date shall be set and all  
11 parties notified thereof. Such trial date shall be at least five  
12 days from notification thereof unless all parties consent  
13 otherwise thereto.

14 If no appearance or other notification is made within  
15 twenty days after the service of the summons on the  
16 defendant, or, in matters involving unlawful entry and  
17 detainer within five days after service of summons, judgment  
18 by default may be entered in accordance with the provisions  
19 of section ten of this article.

20 At any trial in any matter involving unlawful entry and  
21 detainer and in the trial of any case in any way involving the  
22 possession, use or control of rental property, it is permissible  
23 for a party to plead, prove and obtain judgment for all rent  
24 due and owing the party.

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

*R. P. Bayler*  
Chairman Senate Committee

*Tony E. Whitlow*  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

*Judd C. Willis*  
Clerk of the Senate

*VA Blankenship*  
Clerk of the House of Delegates

*Wm. R. [Signature]*  
President of the Senate

*Wm. H. Seelye, Jr.*  
Speaker House of Delegates

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

*John R. [Signature]*  
Governor

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SECY. OF STATE