

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-30-82

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982



ENROLLED

Committee Substitute for
SENATE BILL NO. 131

(By Mr. *Stepoe*)



PASSED *March 13,* 1982

In Effect *ninety days from* Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 131
(BY MR. STEPTOE, *original sponsor*)

[Passed March 13, 1982; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article one, chapter forty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to dower and the release of dower interest in real estate which the owner has contracted to sell; and providing for institution of civil action for such release when spouse of owner is unable to execute a release or if the owner has used due diligence to ascertain the residence or whereabouts of his or her spouse, without effect.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. DOWER.

§43-1-6. Proceedings for release of dower in real estate which owner has contracted to sell.

1 If the owner of real estate contracts to sell the same,
2 and the spouse of such owner refuses to release his or her
3 dower interest therein, or is unable to execute a release,
4 or if the owner has used due diligence to ascertain the
5 residence or whereabouts of his or her spouse, without
6 effect, the owner or the person contracting to purchase
7 may institute a civil action for the purpose of causing the

8 dower interest to be released and the contract consum-
9 mated. The court on the hearing may, in its discretion,
10 and if satisfied that the contract of sale was made in good
11 faith and without design to force such spouse to part with
12 his or her dower interest, approve the sale and price, and
13 cause to be paid to such spouse such gross sum, computed
14 according to the method provided in article two of this
15 chapter, as shall represent the present value of his or her
16 inchoate dower right: *Provided*, That in any action in
17 which it is alleged that the owner has used due diligence
18 to ascertain the residence or whereabouts of the spouse
19 and such spouse does not make an appearance therein, if
20 the court shall award the relief sought, it shall make in-
21 quiry regarding such due diligence, the sufficiency of
22 process, and the return of process served and make such
23 findings with respect thereto as affirmatively show en-
24 titlement to the relief granted. Upon payment of such
25 sum to the spouse of the owner, the court shall order a
26 release of the dower interest by such spouse, or if he or she
27 fails or refuses to execute the release, then the release
28 shall be executed by a special commissioner appointed
29 by the court for the purpose, which release shall be
30 effectual to pass title to the purchaser free of such right
31 of dower.

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

R. P. Beyler
Chairman Senate Committee

Tommy E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Todd C. Wicks
Clerk of the Senate

V. A. Blankenship
Clerk of the House of Delegates

Warren R. McSwain
President of the Senate

W. M. Lee, Jr.
Speaker House of Delegates

The within is approved this the 30

day of March, 1982.

Robert D. Lynd
Governor

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SECY. OF STATE