WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED
Committee Substitute for
SENATE BILL NO. 131

(By Mr. Septoe)

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, and the spouse of such owner refuses to release his or her dower interest therein, or 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, the owner or the person contracting to purchase may institute a civil action for the purpose of causing the
dower interest to be released and the contract consummated. The court on the hearing may, in its discretion, and if satisfied that the contract of sale was made in good faith and without design to force such spouse to part with his or her dower interest, approve the sale and price, and cause to be paid to such spouse such gross sum, computed according to the method provided in article two of this chapter, as shall represent the present value of his or her inchoate dower right: Provided, That in any action in which it is alleged that the owner has used due diligence to ascertain the residence or whereabouts of the spouse and such spouse does not make an appearance therein, if the court shall award the relief sought, it shall make inquiry regarding such due diligence, the sufficiency of process, and the return of process served and make such findings with respect thereto as affirmatively show entitlement to the relief granted. Upon payment of such sum to the spouse of the owner, the court shall order a release of the dower interest by such spouse, or if he or she fails or refuses to execute the release, then the release shall be executed by a special commissioner appointed by the court for the purpose, which release shall be effectual to pass title to the purchaser free of such right of dower.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 30

day of March, 1982.

Governor