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2002 MAR 18 P 5:34

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4258

(By Delegates Craig, Wills, Coleman, C. White,
Smirl and Armstead)



Passed March 8, 2002

In Effect Ninety Days from Passage

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FOR

H. B. 4258

(BY DELEGATES CRAIG, WILLS, COLEMAN, C. WHITE,
SMIRL AND ARMSTEAD)

[Passed March 8, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section seven, article eight, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to actions on contracts; providing for certain judgments being based upon affidavits and statements of accounts filed by plaintiffs; allowing for judgments on admission of part of a claim; and requiring for itemization of costs in affidavits.

Be it enacted by the Legislature of West Virginia:

That section seven, article eight, 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 8. ACTIONS ON CONTRACTS.

§55-8-7. Action against makers, drawers, endorsers, acceptors, assignors or absolute guarantors.

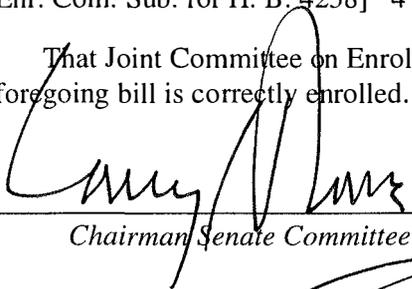
1 (a) The holder of any note, check, draft, bill of exchange or
2 other instrument of any character, whether negotiable or not or
3 any person entitled to judgment for money on contract, in any
4 action at law or proceeding by notice for judgment on motion
5 thereon, may join all or any intermediate number of the persons
6 liable by virtue thereof, whether makers, drawers, endorsers,
7 acceptors, assignors, or absolute guarantors, or may proceed
8 against each separately, although the promise of the makers, or
9 the obligations of the persons otherwise liable, may be joint or
10 several, or joint and several. If notice or other process is not
11 served upon all persons proceeded against, judgment may
12 nevertheless be given against those liable who have been served
13 as provided by law with notice or other process. These actions
14 or proceedings by notice may be had from time to time in the
15 same or any other court until judgment is obtained against every
16 person liable or his personal representative. However, plaintiff
17 shall have satisfaction of but one of two or more judgments
18 rendered on the same demand.

19 (b) In any action at law, whether in circuit court or magis-
20 trate court, on a note or contract, express or implied, for the
21 payment of money, if: (1) The plaintiff files with the complaint
22 an affidavit made by the plaintiff or an agent, stating therein to
23 the best of the affiant's belief the amount of the plaintiff's
24 claim, that the amount is justly due, and the time from which
25 plaintiff claims interest; and (2) a copy of the affidavit together
26 with a copy of any account filed with the complaint is served
27 upon the defendant, the plaintiff is entitled to a judgment on the
28 affidavit and statement of account without further evidence
29 unless the defendant files an answer denying the claim or
30 otherwise makes an appearance before the court denying that

31 the plaintiff is entitled to recover from the defendant on the
32 claim. The affidavit must show the calculation of the amount
33 sought. The calculation is to also include an itemization of the
34 principal and any interest, insurance or other charges of the
35 original obligation. The calculation is also to include an
36 itemization of all credits to the original obligation including
37 credits to principal, interest, insurance, any other charges,
38 rebates of unearned interest, rebates of insurance, rebates of
39 other charges and proceeds of sale of all collateral. If the
40 defendant's pleading or affidavit admits that the plaintiff is
41 entitled to recover from the defendant a sum certain less than
42 that stated in the affidavit filed by the plaintiff, judgment may
43 be taken by the plaintiff for the sum so admitted to be due and
44 the case will be tried as to the residue.

Enr. Com. Sub. for H. B. 4258] 4

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



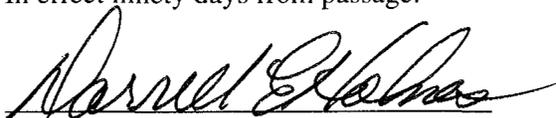
Chairman Senate Committee



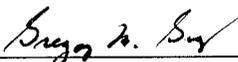
Chairman House Committee

Originating in the House.

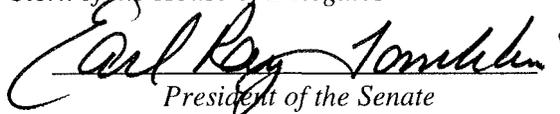
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 18th
day of 4 March 2002.



Governor

PRESENTED TO THE

GOVERNOR

Date 5/12/02

Time 3:50 pm