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WEST VIRGINIA LEGISLATURE

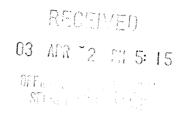
Regular Session, 2003

ENROLLED

Committee Substitute So	
SENATE BILL NO	
(By Senator <u>Kessler</u> , et <u>al</u>)

PASSED March 6, 2003

In Effect 90 days from Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 213

(SENATORS KESSLER, SNYDER, HARRISON, SPROUSE, OLIVERIO, CALDWELL, MCKENZIE, LOVE, FANNING, FACEMYER, ROSS, PLYMALE, BOLEY, SHARPE, MINARD, JENKINS, BAILEY, PREZIOSO, MINEAR, DEEM, WEEKS, HELMICK, GUILLS, EDGELL, SMITH, HUNTER, UNGER AND TOMBLIN, MR. PRESIDENT, original sponsors)

[Passed March 6, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article one, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to venue in West Virginia state courts as it applies to nonresidents of the state; providing that a nonresident may not bring an action in this state unless all or a substantial part of the acts or omissions giving rise to the claim asserted occurred in this state; setting forth the conditions under which a nonresident can file an action in this state if the nonresident cannot obtain jurisdic-

tion over a defendant in the state where the action arose; requiring a nonresident to establish that such action cannot be maintained in the state where the action arose due to lack of any legal basis to obtain personal jurisdiction over the defendant; providing that in a civil action where more than one plaintiff is joined, each plaintiff must independently establish proper venue; limiting a nonresident from intervening or joining as a plaintiff unless the person independently establishes proper venue; and requiring the court to dismiss a plaintiff without prejudice if venue is not proper as to any such nonresident plaintiff in any court of this state.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. VENUE.

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§56-1-1. Venue generally.

- (a) Any civil action or other proceeding, except where it 1
- 2 is otherwise specially provided, may hereafter be brought
- in the circuit court of any county: 3
- 4 (1) Wherein any of the defendants may reside or the
- 5 cause of action arose, except that an action of ejectment or
- unlawful detainer must be brought in the county wherein 6
- the land sought to be recovered, or some part thereof, is;
- 8 (2) If a corporation be a defendant, wherein its principal
- office is or wherein its mayor, president or other chief 9
- officer resides; or if its principal office be not in this state
- and its mayor, president or other chief officer do not reside 11
- therein, wherein it does business; or if it be a corporation 12
- organized under the laws of this state which has its 13
- principal office located outside of this state and which has 14
- 15 no office or place of business within the state, the circuit
- court of the county in which the plaintiff resides or the 16
- 17 circuit court of the county in which the seat of state

- 18 government is located shall have jurisdiction of all actions
- at law or suits in equity against the corporation, where the 19
- 20 cause of action arose in this state or grew out of the rights
- 21 of stockholders with respect to corporate management;
- 22 (3) If it be to recover land or subject it to a debt, where 23 the land or any part may be;
- 24 (4) If it be against one or more nonresidents of the state. 25 where any one of them may be found and served with process or may have estate or debts due him or them; 26
- 27 (5) If it be to recover a loss under any policy of insurance 28 upon either property, life or health or against injury to a 29 person, where the property insured was situated either at 30 the date of the policy or at the time when the right of 31 action accrued or the person insured had a legal residence 32 at the date of his or her death or at the time when the right
- of action accrued: 33
- (6) If it be on behalf of the state in the name of the 34 35 attorney general or otherwise, where the seat of government is; or 36
- 37 (7) If a judge of a circuit be interested in a case which, but for such interest, would be proper for the jurisdiction 38 of his or her court, the action or suit may be brought in 39 40 any county in an adjoining circuit.
- 41 (b) Whenever a civil action or proceeding is brought in the county where the cause of action arose under the 42 provisions of subsection (a) of this section, if no defendant 43 resides in the county, a defendant to the action or proceed-44 45 ing may move the court before which the action is pending for a change of venue to a county where one or more of the 46 defendants resides and upon a showing by the moving 47 defendant that the county to which the proposed change of 48 venue would be made would better afford convenience to 49 the parties litigant and the witnesses likely to be called 50 and if the ends of justice would be better served by the 51 change of venue, the court may grant the motion.

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53 (c) Effective for actions filed after the effective date of 54 this section, a nonresident of the state may not bring an action in a court of this state unless all or a substantial 55 56 part of the acts or omissions giving rise to the claim asserted occurred in this state: Provided. That unless 57 barred by the statute of limitations or otherwise time 58 barred in the state where the action arose, a nonresident of 59 60 this state may file an action in state court in this state if 61 the nonresident cannot obtain jurisdiction in either federal 62 or state court against the defendant in the state where the 63 action arose. A nonresident bringing such an action in this state shall be required to establish, by filing an affidavit 64 with the complaint for consideration by the court, that 65 66 such action cannot be maintained in the state where the 67 action arose due to lack of any legal basis to obtain personal jurisdiction over the defendant. In a civil action 68 where more than one plaintiff is joined, each plaintiff must 69 70 independently establish proper venue. A person may not intervene or join in a pending civil action as a plaintiff 71 72 unless the person independently establishes proper venue. If venue is not proper as to any such nonresident plaintiff 73 in any court of this state, the court shall dismiss the claims 74 of the plaintiff without prejudice to refiling in a court in 75 any other state or jurisdiction. 76

5 [Enr. Com. Sub. For S. B. No. 213

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.
Chairman Senate Committee
Holg Bulley Chairman House Committee
Originated in the Senate.
In 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 Jul. Day of And 2003.
1806 Ms
® Governor

PRESENTED TO THE GOVERNOR