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WEST VIRGINIA LEGISLATURE

Regular Session, 2003

ENROLLED

Committee Substitute for

SENATE BILL NO. 213

(By Senator Kessler et al.)

PASSED March 6, 2003

In Effect 90 days from Passage

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

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.

§56-1-1. Venue generally.

1 (a) Any civil action or other proceeding, except where it
2 is otherwise specially provided, may hereafter be brought
3 in the circuit court of any county:

4 (1) Wherein any of the defendants may reside or the
5 cause of action arose, except that an action of ejectment or
6 unlawful detainer must be brought in the county wherein
7 the land sought to be recovered, or some part thereof, is;

8 (2) If a corporation be a defendant, wherein its principal
9 office is or wherein its mayor, president or other chief
10 officer resides; or if its principal office be not in this state
11 and its mayor, president or other chief officer do not reside
12 therein, wherein it does business; or if it be a corporation
13 organized under the laws of this state which has its
14 principal office located outside of this state and which has
15 no office or place of business within the state, the circuit
16 court of the county in which the plaintiff resides or the
17 circuit court of the county in which the seat of state

18 government is located shall have jurisdiction of all actions
19 at law or suits in equity against the corporation, where the
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
26 process or may have estate or debts due him or them;

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
33 of action accrued;

34 (6) If it be on behalf of the state in the name of the
35 attorney general or otherwise, where the seat of govern-
36 ment is; or

37 (7) If a judge of a circuit be interested in a case which,
38 but for such interest, would be proper for the jurisdiction
39 of his or her court, the action or suit may be brought in
40 any county in an adjoining circuit.

41 (b) Whenever a civil action or proceeding is brought in
42 the county where the cause of action arose under the
43 provisions of subsection (a) of this section, if no defendant
44 resides in the county, a defendant to the action or proceed-
45 ing may move the court before which the action is pending
46 for a change of venue to a county where one or more of the
47 defendants resides and upon a showing by the moving
48 defendant that the county to which the proposed change of
49 venue would be made would better afford convenience to
50 the parties litigant and the witnesses likely to be called
51 and if the ends of justice would be better served by the
52 change of venue, the court may grant the motion.

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

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

[Signature]
.....
Chairman Senate Committee

Greg Butcher
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Russell Holmes
.....
Clerk of the Senate

Suzanne M. Boyd
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Robert Kiss
.....
Speaker House of Delegates

The within *is approved* this the *2nd*
Day of *April*, 2003.

Bob Wise
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/19/03 BW

Time 4:30pm