

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 489

BY SENATORS AZINGER AND TRUMP

[Introduced March 1, 2017; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §50-4-1 of the Code of West Virginia, 1931, as amended, relating
2 to commencement of civil actions in magistrate court; and amending the requirements for
3 a statement of the nature of the cause of action for commercial creditors.

Be it enacted by the Legislature of West Virginia:

1 That §50-4-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted
2 to read as follows:

ARTICLE 4. PROCEDURE BEFORE TRIAL.

§50-4-1. Commencement of civil actions.

1 There shall be one form of civil action in magistrate court. Civil actions shall be
2 commenced by the payment of the fees required by article three of this chapter and by providing
3 any magistrate court clerk, magistrate court deputy clerk, or magistrate assistant with a concise
4 statement, either oral or written, of the nature of the cause of action. ~~Where such statement is~~
5 ~~filed by a commercial creditor, the statement shall include, but not be limited to, a setting forth of~~
6 ~~the amount of the original obligation, the portion thereof which constitutes principal, the portion~~
7 ~~thereof which represents interest, the date and amount of payments thereon, the amount, if any,~~
8 ~~credited for the sale of repossessed collateral, and the amount alleged to be due~~ The magistrate
9 court clerk, the magistrate court deputy clerk, or magistrate assistant shall immediately prepare a
10 summons in such form and containing such information as may be required by the rules of the
11 Supreme Court of Appeals. The summons shall be dated the same day the request therefor is
12 received and the appropriate fees received, and the action shall be deemed commenced as of
13 that date. The magistrate assistant shall thereupon forward the matter to the magistrate court
14 clerk together with any service of process fees which may have been collected.

15 Upon receipt of the matter by the magistrate court clerk, such clerk shall docket the same
16 in a central docket, and shall sign the summons and forward it, together with any service of
17 process fees, to the sheriff for service. Such clerk shall assign the action for trial in the manner
18 as shall be prescribed by the judge of the circuit court, or the chief judge thereof if there is more

19 than one judge of the circuit court, to promote and secure the convenient and expeditious
20 transaction of the business of the court.

NOTE: The purpose of this bill is to amend the requirements of the statement relating to the nature of the cause of action for commencement of an action in magistrate court by commercial creditors.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.