

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 124

By Senator Barrett

[Introduced February 12, 2025; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §55-2-6, §55-2-7, and §55-2-11 of the Code of West Virginia, 1931,
 2 as amended, relating to limitation of certain actions; and reducing time within which to bring
 3 actions to recover on written and oral contracts, certain bonds, and recognizances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. LIMITATION OF ACTIONS AND SUITS.

§55-2-6. Actions to recover on award or contract other than judgment or recognizance.

1 Every action to recover money, which is founded upon an award, or on any contract other
 2 than a judgment or recognizance, shall be brought within the following number of years next after
 3 the right to bring the same shall have accrued, that is to say: If the case be upon an indemnifying
 4 bond taken under any statute, or upon a bond of an executor, administrator or guardian, curator,
 5 committee, sheriff or deputy sheriff, clerk or deputy clerk, or any other fiduciary or public officer,
 6 within ~~ten~~ five years; if it be upon any other contract in writing under seal, within ~~ten~~ five years; if it
 7 be upon an award, or upon a contract in writing, signed by the party to be charged thereby, or by
 8 his or her agent, but not under seal, within ~~ten~~ five years; and if it be upon any other contract,
 9 express or implied, within ~~five~~ two years, unless it be an action by one party against his or her
 10 copartner for a settlement of the partnership accounts, or upon accounts concerning the trade or
 11 merchandise between merchant and merchant, their factors or servants, where the action of
 12 account would lie, in either of which cases the action may be brought until the expiration of five
 13 years from a cessation of the dealings in which they are interested together, but not after.

§55-2-7. Actions on bonds of personal representatives and fiduciaries.

1 The right of action upon the bond of an executor, administrator, guardian, curator or
 2 committee, or of a sheriff acting as such, shall be deemed to have first accrued as follows: Upon a
 3 bond of a guardian or curator of a ward, from the time of the ward's attaining the age of 18 years, or
 4 from the termination of the guardian's or curator's office, whichever shall happen first; and upon
 5 the bond of any personal representative of a decedent or committee of an insane person, the right
 6 of action of a person obtaining execution against such representative or committee, or to whom

7 payment or delivery of estate in the hands of such representative or committee shall be ordered by
 8 a court acting upon his or her account, shall be deemed to have first accrued from the return day of
 9 such execution, or from the time of the right to require payment or delivery upon such order,
 10 whichever shall happen first. And as to any suit against such fiduciary himself or herself, or his or
 11 her representative, which could have been maintained if he or she had given no bond, there shall
 12 be no other limitation than would exist if the preceding section were not passed. Where any such
 13 fiduciary, or any other fiduciary, has settled an account under the provisions of §44-4-1 *et seq.* of
 14 this code, a suit to hold such fiduciary or his or her sureties liable for any balance stated in such
 15 account to be in his or her hands shall be brought within ~~ten~~ five years after the account has been
 16 confirmed. The right to recover money paid under fraud or mistake shall be deemed to accrue,
 17 both at law and in equity, at the time such fraud or mistake is discovered, or by the exercise of due
 18 diligence ought to have been discovered.

§55-2-11. Action or scire facias on recognizance.

1 Every action or scire facias upon a recognizance shall, if it be not a recognizance of bail, be
 2 commenced within ~~ten~~ five years next after the right to bring the same shall have first accrued;
 3 and, if it be a recognizance of bail, within three years after the right to bring the same shall have
 4 first accrued.

NOTE: The purpose of this bill is to reduce the statute of limitations on actions to recover on both oral and written contracts, on bonds of fiduciaries and personal representatives, and on recognizances.

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