

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 124

BY SENATORS BARRETT AND DEEDS

[Reported February 26, 2025, from 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; reducing time within which to bring
3 actions to recover on written and oral contracts, certain bonds, and recognizances; and
4 clarifying that the discovery rule applies to the affected statutes of limitations.

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
7 it be upon an award, or upon a contract in writing, signed by the party to be charged thereby, or
8 by 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 co-
10 partner 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:
14 Provided, That the limitations set forth in this section do not begin to run until either the right to a
15 cause of action accrues or until the person with a right to a cause of action knows or reasonably
16 should know that their right to bring a cause of action has accrued, whichever is later.

§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

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