

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

Introduced

### Senate Bill 451

FISCAL  
NOTE

BY SENATOR TRUMP

[Introduced February 27, 2017; Referred  
to the Committee on the Judiciary]

1 A BILL to repeal §56-1-1a of the Code of West Virginia, 1931, as amended; and to amend and  
 2 reenact §56-1-1 of said code, all relating to venue in West Virginia state courts as it applies  
 3 to nonresidents of the state; providing that a nonresident generally may not bring an action  
 4 in the state unless all or a substantial part of the acts or omissions giving rise to the claim  
 5 asserted occurred in this state; setting forth the conditions under which a nonresident can  
 6 file an action in this state; providing that certain nonresident actions may be maintained in  
 7 this state if the nonresident cannot obtain jurisdiction over a defendant in the state where  
 8 the action arose; requiring nonresident plaintiffs to establish that such action cannot be  
 9 maintained in the state where the action arose; providing that in a civil action where more  
 10 than one plaintiff is joined, each plaintiff must independently establish proper venue;  
 11 limiting a nonresident from intervening or joining as a plaintiff unless the person  
 12 independently establishes proper venue; providing that in a civil action where more than  
 13 one defendant is joined, if venue is proper as to one defendant, it is also proper as to any  
 14 other defendant with respect to all actions arising out of the same transaction or  
 15 occurrence; defining nonresident as any person, whether a citizen of the State of West  
 16 Virginia or another state, who was domiciled outside the State of West Virginia at the time  
 17 of the acts or omissions giving rise to the claim asserted; excluding from the definition of  
 18 “nonresident” certain members of the armed forces or full-time students of any college or  
 19 university of this state; and requiring the court to dismiss a plaintiff without prejudice if  
 20 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:*

1 That §56-1-1a of the Code of West Virginia, 1931, as amended, be repealed; and that  
 2 §56-1-1 of said code be amended and reenacted, all to read as follows:

**ARTICLE 1. VENUE.**

**§56-1-1. Venue generally.**

1 (a) Any civil action or other proceeding, except where it is otherwise specially provided,

2 may hereafter be brought in the circuit court of any county:

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

6 (2) If a corporation be a defendant, wherein its principal office is or wherein its mayor,  
7 president or other chief officer resides; or if its principal office be not in this state, and its mayor,  
8 president or other chief officer do not reside therein, wherein it does business; or if it be a  
9 corporation organized under the laws of this state which has its principal office located outside of  
10 this state and which has no office or place of business within the state, the circuit court of the  
11 county in which the plaintiff resides or the circuit court of the county in which the seat of state  
12 government is located shall have jurisdiction of all actions at law or suits in equity against the  
13 corporation, where the cause of action arose in this state or grew out of the rights of stockholders  
14 with respect to corporate management;

15 (3) If it be to recover land or subject it to a debt, where the land or any part may be;

16 (4) If it be against one or more nonresidents of the state, where any one of them may be  
17 found and served with process or may have estate or debts due him or her or them;

18 (5) If it be to recover a loss under any policy of insurance upon either property, life or  
19 health or against injury to a person, where the property insured was situated either at the date of  
20 the policy or at the time when the right of action accrued or the person insured had a legal  
21 residence at the date of his or her death or at the time when the right of action accrued;

22 (6) If it be on behalf of the state in the name of the Attorney General or otherwise, where  
23 the seat of government is; or

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

27 (b) Whenever a civil action or proceeding is brought in the county where the cause of

28 action arose under the provisions of subsection (a) of this section, if no defendant resides in the  
29 county, a defendant to the action or proceeding may move the court before which the action is  
30 pending for a change of venue to a county where one or more of the defendants resides and upon  
31 a showing by the moving defendant that the county to which the proposed change of venue would  
32 be made would better afford convenience to the parties litigant and the witnesses likely to be  
33 called, and if the ends of justice would be better served by the change of venue, the court may  
34 grant the motion.

35 (c) For all civil actions filed on or after July 1, 2017, a nonresident of the state may not  
36 bring an action in a court of this state unless all or a substantial part of the acts or omissions giving  
37 rise to the claim asserted occurred in this state: *Provided*, That unless barred by the statute of  
38 limitations or otherwise time barred in the state where the action arose, a nonresident of this state  
39 may file an action in state court in this state if the nonresident cannot obtain jurisdiction in either  
40 federal or state court against the defendant in the state where the action arose. A nonresident  
41 bringing such an action in this state shall be required to establish, by filing an affidavit with the  
42 complaint for consideration by the court, that such action cannot be maintained in the state where  
43 the action arose due to lack of any legal basis to obtain personal jurisdiction over the defendant.

44 In a civil action where more than one plaintiff is joined, each plaintiff must independently  
45 establish proper venue. A person may not intervene or join in a pending civil action as a plaintiff  
46 unless the person independently establishes proper venue. If venue is not proper as to any such  
47 nonresident plaintiff in any court of this state, the court shall dismiss the claims of the plaintiff  
48 without prejudice to refiling in a court in any other state or jurisdiction. When venue is proper as  
49 to one defendant, it is also proper as to any other defendant with respect to all actions arising out  
50 of the same transaction or occurrence.

51 For purposes of this subsection, "nonresident" means any person, whether a citizen of this  
52 state or another state, who was domiciled outside the State of West Virginia at the time of the  
53 acts or omissions giving rise to the claim asserted: *Provided*, That a member of the Armed Forces

54 of the United States who is stationed beyond the territorial limits of this state, but who was a  
55 resident of this state at the time of his or her entry into such service and any full-time student of  
56 any college or university of this state, even though he or she is paying a nonresident tuition, shall  
57 be considered a resident under this subsection.

NOTE: The purpose of this bill is to clarify venue in West Virginia state courts as it applies to nonresidents of the state, and to provide that nonresidents generally may not bring an action in the state unless a substantial part of the acts or omissions giving rise to the claim occurred in the state in order to preserve access to West Virginia courts for West Virginia residents and nonresidents who are actually injured in the state.

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