

H. B. 2053

(By Delegate Shott)

[Introduced January 14, 2015 ; referred to the

Committee on the Judiciary.]

A BILL to amend and reenact §38-1-2 of the Code of West Virginia, 1931, as amended, relating to the form of trust deeds; and permitting the recording of a memorandum of deed of trust in lieu of the deed of trust.

Be it enacted by the Legislature of West Virginia:

That §38-1-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. VENDOR'S AND TRUST DEED LIENS.

§38-1-2. Form of trust deed; memorandum of deed of trust may be recorded.

A trust deed to secure debts or indemnify sureties may be in the following form or to the same effect: "This deed made the day of, in the year, between (the grantor) of the one part, and (the trustee) of the other part, witnesseth: That the said (the grantor) doth (or do) grant unto the said (the trustee) the following property (here describe it). In trust to secure (here describe the debts to

1 be secured or the sureties to be indemnified, and insert covenants, or any other provisions the parties
2 may agree upon). Witness the following signature."

3 In lieu of the recording of a deed of trust, there may be recorded with like effect a
4 memorandum of the deed of trust, executed by all persons who are grantors under the deed of trust
5 and acknowledged in the manner to entitle a conveyance to be recorded. A memorandum of deed
6 of trust entitled to be recorded shall contain at least the following information with respect to the
7 deed of trust: The name and the address of each grantor, the name and the address of each trustee
8 and the name and the address of each beneficiary as set forth in the deed of trust; a reference to the
9 indebtedness secured by the deed of trust including the amount of the indebtedness and the date the
10 indebtedness was incurred or if the indebtedness is evidenced by a note or contract, the date the
11 instrument was executed; the date of execution of the deed of trust if different than the date the
12 evidence of indebtedness was executed; a description of the real estate against which a lien is
13 claimed to secure the indebtedness; the date on which the indebtedness is due; and a summary of the
14 applicable notice and publication requirements if there is a default. The memorandum shall
15 constitute notice of only the information contained therein but, as against creditors and purchasers,
16 it is as valid as if the complete deed of trust were recorded on the date the memorandum is admitted
17 to record.

NOTE: The purpose of this bill is to permit the recording of a memorandum of deed of trust in lieu of the deed of trust.

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