

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 241

FISCAL
NOTE

BY SENATORS WELD, CLINE, HAMILTON, AND BALDWIN

[Introduced January 10, 2019; Referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §39-1-11 of the Code of West Virginia, 1931, as amended, relating
2 to recording of writings to be recorded under the direction of the county clerk; and
3 permitting the clerk, with written authorization from the state Department of History and
4 Archive, to scan certain documents in electronic form rather than in well-bound books.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. AUTHENTICATION AND RECORD OF WRITINGS.

§39-1-11. Recordation of writings and plats and papers annexed; index; interlineations; filing under Uniform Commercial Code.

1 Every writing (except financing, continuation and termination statements and other
2 statements and writings permitted to be filed under chapter 46 of the code) authorized by law to
3 be recorded, when admitted to record, shall, with all certificates of acknowledgment, and all plats,
4 schedules and other papers thereto annexed or thereon indorsed, be recorded by, or under the
5 direction of, the clerk of the county court, in a well-bound book, to be carefully preserved; and
6 there shall be an index to such book as well in the name of the grantee as of the grantor: *Provided,*
7 That a county clerk may, with written authorization from the West Virginia Department of History
8 and Archives, scan all recordable documents in electronic form rather than in well-bound books,
9 will not be required to contain in separate books an index of any type, and may replace existing
10 well-bound books by scanning them in an approved electronic format: *Provided, however,* That
11 further, existing well-bound books be retained either on-site or off-site.

12 After being so recorded, such writing may be delivered to the party entitled to claim under
13 the same. If, except in those cases where such writing is recorded by photography or similar
14 process producing exact facsimile copies, there appear upon such writing, or any paper or
15 certificate annexed thereto, any interlineation, erasure or alteration, of which no memorandum is
16 contained in the writing, paper or certificate, the clerk shall append to the record thereof a
17 memorandum describing as accurately as may be such interlineation, erasure or alteration; and
18 such memorandum shall be copied into every such writing, paper or certificate. Every such

19 memorandum shall be prima facie evidence of what is therein stated: *Provided*, That the clerk of
20 the county court may refuse to accept for recordation any instrument printed on both sides of the
21 paper or printed in whole or part in smaller than 10 point type with at least two points separating
22 each line. Any failure of such instrument to be so accepted by the clerk of the county court shall
23 not affect the validity thereof as to the parties thereto: *Provided, however*, That any such
24 instrument shall be accepted by the clerk for recording at one and one-half times the legal fee
25 therefor.

26 Financing, continuation and termination statements and other statements and writings
27 permitted to be filed under chapter 46 of the code shall be filed in a proper file by the clerk of the
28 county court or the Secretary of State, as the case may be, as specified in said chapter 46. Such
29 statements and writings filed in the office of the clerk of the county court and such statements and
30 writings filed in the office of the Secretary of State shall be indexed according to the name of the
31 debtor and shall disclose the assigned file number and the address of the debtor given in the
32 respective statement or writing. The date and hour of filing and the file number shall be noted on
33 the statement or writing involved. A financing, continuation or termination statement or other
34 statement or writing permitted to be filed under chapter 46 of the code may, after the same ceases
35 to be effective or lapses, as specified in said chapter 46, be removed from the files in the office of
36 the clerk of the county court or the Secretary of State, as the case may be, and destroyed.

NOTE: The purpose of this bill is to permit the Clerk of the County Court with authorization from the Department of History and Culture, to scan certain documents in electronic form.

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