

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

Senate Bill 241

SENATORS WELD, CLINE, HAMILTON, AND BALDWIN,

original sponsors

[Originating in the Committee on Government

Organization; Reported on January 23, 2019]

1 A BILL to amend and reenact §39-1-11 of the Code of West Virginia, 1931, as amended, relating
2 to writings to be recorded under the direction of the county clerk; permitting the clerk, with
3 authorization from the county commission, to scan and record certain documents in
4 electronic form rather than in well-bound books, not prepare indices in separate books,
5 and replace existing books by scanning them in approved electronic format; requiring that
6 existing books be retained; providing exception to retention of books; and updating terms.

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~~ this code) authorized by law
3 to be recorded, when admitted to record, shall, with all certificates of acknowledgment, and all
4 plats, schedules, and other papers thereto annexed or thereon indorsed, be recorded by, or under
5 the direction of, the clerk of the county ~~court~~ commission, in a well-bound book, to be carefully
6 preserved; and there shall be an index to such book as well in the name of the grantee as of the
7 grantor: Provided, That the county commission may, in accordance with the provisions of §5A-8-
8 15 of this code, authorize the clerk to scan and record all such writings and papers in electronic
9 form rather than in well-bound books, not prepare in separate books an index of any type, and
10 replace existing well-bound books by scanning them in an approved electronic format: *Provided,*
11 *however,* That existing well-bound books be retained either on-site or off-site unless the
12 provisions of §5A-8-15 of this code are followed.

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

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

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

NOTE: The purpose of this bill is to permit the county clerk, with authorization from the county commission, to scan and record certain documents in electronic form rather than in books, not prepare indices of those documents in separate books, and replace existing books by scanning them in an approved electronic format. The bill provides that existing books be retained.

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