

H. B. 3037

(By Delegates Shott and McCuskey)
[Introduced March 21, 2013; 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

1 (the trustee) of the other part,
2 witnesseth: That the said (the grantor) doth
3 (or do) grant unto the said (the trustee)
4 the following property (here describe it). In trust to secure
5 (here describe the debts to be secured or the sureties to be
6 indemnified, and insert covenants, or any other provisions the
7 parties may agree upon). Witness the following signature."

8 In lieu of the recording of a deed of trust, there may be
9 recorded with like effect a memorandum of the deed of trust,
10 executed by all persons who are grantors under the deed of trust
11 and acknowledged in the manner to entitle a conveyance to be
12 recorded. A memorandum of deed of trust entitled to be recorded
13 shall contain at least the following information with respect to
14 the deed of trust: The name and the address of each grantor, the
15 name and the address of each trustee and the name and the address
16 of each beneficiary as set forth in the deed of trust; a reference
17 to the indebtedness secured by the deed of trust including the
18 amount of the indebtedness and the date the indebtedness was
19 incurred or if the indebtedness is evidenced by a note or contract,
20 the date the instrument was executed; the date of execution of the
21 deed of trust if different than the date the evidence of
22 indebtedness was executed; a description of the real estate against
23 which a lien is claimed to secure the indebtedness; the date on
24 which the indebtedness is due; and a summary of the applicable

1 notice and publication requirements if there is a default. The
2 memorandum shall constitute notice of only the information
3 contained therein but, as against creditors and purchasers, it is
4 as valid as if the complete deed of trust were recorded on the date
5 the memorandum is admitted 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.