

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4335

BY DELEGATES SPONAUGLE, ROWE, HARTMAN, LYNCH,

WILLIAMS, BATES, ISNER, A. EVANS, R. ROMINE,

HAMILTON AND BARRETT

[Introduced January 26, 2018; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §38-12-4 of the Code of West Virginia, 1931, as amended, relating
 2 to requiring that lien releases filed with county clerk’s office include the Deed of Trust Book
 3 and page numbers where the lien is filed.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. RELEASE AND ASSIGNMENT OF LIENS.

§38-12-4. Form of release; recordation of assignment with release by assignee.

1 Releases and their acknowledgments may be substantially in form or effect as follows:

2 (a) In case of a mortgage or trust deed: I, A..... B....., hereby release a
 3 mortgage (or trust deed) made by C..... D..... to me (or to E..... F....., my
 4 trustee, or to, and assigned to me) dated the day of, recorded in the office of
 5 the clerk of the county court of county, West Virginia, in trust deed book, page
 6 (Or, in case the release is by the trustee, I, A..... B....., hereby release a trust deed
 7 made by C..... D..... to me as trustee, for the benefit of E..... F....., dated
 8 the day of, recorded, etc., as in preceding form.) To be signed A..... B.....

9 Acknowledged before the subscriber, by A..... B....., this day of (or,
 10 in case the release be by a corporation, acknowledged before the subscriber, by, who
 11 signed the name of, a corporation, thereto, this day of, recorded, etc.,
 12 as in the preceding form.)

13 (To be signed) G..... H....., a justice (or clerk of the county court, notary public,
 14 etc., as the case may be) of county, West Virginia.

15 (b) In case of a lien for purchase money, reserved by conveyance:
 16 I, A..... B....., hereby release the right reserved to me in a conveyance
 17 executed by me (or myself and wife) to C..... D....., dated the day of (Or,
 18 in case of an assignment, I, A..... B..... hereby release the right reserved by
 19 C..... D..... in a conveyance to E..... F....., dated the day of,
 20, which right was assigned by the said C..... D..... to me, the day of,

21 recorded, etc., as in the preceding form.) To be signed and acknowledged as above.

22 (c) In case of a judgment or decree: I, A..... B....., hereby release a judgment
23 (or decree) in my favor (or in favor of I..... K....., which has been assigned to me; or
24 in favor of I..... K..... for my use) against C..... D....., for (stating the
25 amount) with interest and costs recorded, etc., as in the preceding form. rendered by (stating the
26 court by which, or the justice by whom, it was rendered, and the term or date at which it was
27 rendered, to be signed and acknowledged as above.)

28 When such lien is released by the assignee thereof, the assignment thereof, whether of
29 the lien or of the debt secured thereby, must be acknowledged in the same manner as the release,
30 and recorded with such release: *Provided*, That if any such lien, or the debt secured thereby, shall
31 have been assigned, the same may always be released by the assignee who receives satisfaction
32 thereof, upon the assignor joining therein, without the recordation of the assignment as aforesaid.

NOTE: The purpose of this bill is to require that lien releases filed with county clerk’s office include the Deed of Trust Book and page numbers where the lien is filed.

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