

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 241

SENATORS WELD, CLINE, HAMILTON, AND BALDWIN,

original sponsors

[Passed March 9, 2019; in effect 90 days from
passage]

1 AN ACT 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 make available online when
4 financially feasible certain documents in electronic form rather than in well-bound books,
5 not prepare indices in separate books, and replace existing books by scanning them in
6 approved electronic format; requiring that existing books be retained; providing exception
7 to retention of books; requiring that copies of documents in electronic format are stored
8 on an off-site server; 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 this 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 commission, in a well-bound book, to be carefully preserved;
6 and there shall be an index to such book as well in the name of the grantee as of the grantor:
7 *Provided*, That the county commission may, in accordance with the provisions of §5A-8-15 of this
8 code, authorize the clerk to scan, record, and make available online when determined to be
9 financially feasible by the county commission all such writings and papers in electronic form rather
10 than in well-bound books, not prepare in separate books an index of any type, and replace existing
11 well-bound books by scanning them in an approved electronic format: *Provided, however*, That
12 existing well-bound books be retained either on-site or off-site unless the provisions of §5A-8-15
13 of this code are followed: *Provided further*, That any documents in an electronic format are stored

14 on a server off site, such as a cloud-based server, to retain a backup copy of electronic
15 documents.

16 After being recorded, such writing may be delivered to the party entitled to claim under the
17 same. If, except in those cases where such writing is recorded by photography or similar process
18 producing exact facsimile copies, there appear upon such writing, or any paper or certificate
19 annexed thereto, any interlineation, erasure, or alteration, of which no memorandum is contained
20 in the writing, paper, or certificate, the clerk shall append to the record thereof a memorandum
21 describing as accurately as may be such interlineation, erasure, or alteration; and such
22 memorandum shall be copied into every such writing, paper, or certificate. Every such
23 memorandum shall be prima facie evidence of what is stated therein: *Provided*, That the clerk of
24 the county commission may refuse to accept for recordation any instrument printed on both sides
25 of the paper or printed in whole or part in smaller than 10-point type with at least two points
26 separating each line. Any failure of such instrument to be so accepted by the clerk of the county
27 commission shall not affect the validity thereof as to the parties thereto: *Provided, however*, That
28 any such instrument shall be accepted by the clerk for recording at one and one-half times the
29 legal fee therefor.

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

40 in the office of the clerk of the county commission or the Secretary of State, as the case may be,
41 and destroyed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2019.

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Governor