

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5624

By Delegates Anderson, Zatezalo, Dillon, Heckert,
and Barnhart

[Introduced February 12, 2024; Referred to the
Committee on Energy and Manufacturing then the
Judiciary]

1 A BILL to amend and reenact §40-1-8 of the Code of West Virginia, 1931, as amended, relating to
2 providing recorded notice to surface owners of potential mineral development surface uses
3 which burden the surface estate.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. ACTS GENERALLY VOID AS TO CREDITORS AND PURCHASERS.

§40-1-8. Effect of recording certain contracts as to creditors and purchasers; memorandum of lease may be recorded.

1 (a) Any contract in writing made in respect to real estate or goods and chattels in
2 consideration of marriage; or any contract in writing made for the conveyance or sale of real
3 estate, or an interest or term therein of more than five years, or any other interest or term therein,
4 of any duration, under which the whole or any part of the corpus of the estate may be taken,
5 destroyed, or consumed, except for domestic use, shall, from the time it is duly admitted to record,
6 be, as against creditors and purchasers, as valid as if the contract were a deed conveying the
7 estate or interest embraced in the contract.

8 (b) In lieu of the recording of a lease pursuant to this section, there may be recorded with
9 like effect a memorandum of such lease, executed by all persons who are parties to the lease and
10 acknowledged in the manner to entitle a conveyance to be recorded. A memorandum of lease thus
11 entitled to be recorded shall contain at least the following information with respect to the lease: The
12 name of the lessor and the name of the lessee and the addresses of such parties as set forth in the
13 lease; a reference to the lease, with its date of execution; a description of the leased premises in
14 the form contained in the lease; the term of the lease, with the date of commencement and the
15 date of termination of such term, and if there is a right of extension or renewal, the maximum
16 period for which, or date to which, the lease may be extended, or the number of times or date to
17 which it may be renewed and the date or dates on which such rights of extension or renewal are
18 exercisable. Such memorandum shall constitute notice of only the information contained therein.

19 (c) In addition to the requirements of subsection (b), memoranda of leases which burden a

20 completely severed mineral estate shall be executed by at least one owner of every overlying
21 surface parcel; shall be acknowledged by the executing surface owners in a recordable manner;
22 shall include a brief description of the overlying surface parcels and a brief description of potential
23 surface uses and burdens related to development of the mineral estate under the lease; and when
24 presented to the county recorder, shall be recorded in the public record under the name of the
25 executing _____ surface _____ owners.

NOTE: The purpose of this bill is to provide recorded notice to surface owners of potential mineral development surface uses which burden the surface estate.

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