

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4036

BY DELEGATES HOWELL, SUMMERS, SMITH, CRISS,
PHILLIPS, HORST, PRITT, PACK, ZATEZALO, LINVILLE, AND
HAYNES

[Introduced January 12, 2022; Referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §37-16-1, §37-16-2, and §37-16-3, all relating to the creation of the West
3 Virginia Title Protection Act; providing for legislative findings; ensuring that rightful property
4 owners retain title to their property free of all encumbrances when fraudulent or wrongful
5 claims are listed against their property, or loans are taken out using fraudulent means;
6 and providing for a mechanism for county clerks to provide notice to rightful landowners
7 when property is transferred or when titles are filed or modified against property.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. WEST VIRGINIA TITLE PROTECTION ACT.

§37-16-1. Findings.

1 (a) The primary purpose of this article is to ensure that rightful property owners are entitled
2 to retain the right to their property when someone lodges a fraudulent claim against that rightful
3 owner's land.

4 (b) Until this point, there has been little to no protection for the rightful owners of property
5 whenever someone makes a fraudulent attempt to create a claim on an individual's property.
6 Recently, private companies have been filling the void with paid subscriptions or one-time
7 payments to ensure that fraudulent claims are not the fault of the rightful property owner; however,
8 the West Virginia Legislature finds that these protections should be in our code.

9 (c) The West Virginia Legislature finds that the threat of a fraudulent claim against an
10 innocent or unaware rightful property owner presents a legitimate threat to the financial well-being
11 of such rightful owners.

12 (d) In fact, according to the Federal Bureau of Investigation, title and mortgage fraud are
13 among the fastest growing white-collar crimes in America.

14 (e) With the advent of technology, almost everything is stored online, including an
15 individual's title to their home and property. This presents a new threat of domestic and
16 international cyber-thieves targeting U.S. homeowner's equity in their homes, and in fact,

17 removing an individual from his or her home's title can take only minutes. These thieves can forge
18 their name on the title document and refile it with a county clerk to make it appear as if they own
19 the property. Afterwards, these thieves can take out loans using an individual's home's equity and
20 stick that individual with the payments. Then, he or she likely will not know until they get a late
21 payment or foreclosure notice from several banks.

22 (f) Further, the West Virginia Legislature finds that the rightful owner of property should
23 not be subjected to punishment or unnecessary legal action when they are a victim of this type of
24 activity.

§37-16-2. Protection of property owners from fraudulent claims.

1 (a) Whenever an individual presents a fraudulent deed to the county clerk against a rightful
2 owner of property or is subsequently able to get a loan using that property, the rightful property
3 owner shall retain title to their property, free of all encumbrances, regardless of the action of the
4 fraudulent filer.

5 (b) The rightful property owner, regardless of the outcome of any subsequent criminal
6 action, civil action, or otherwise, is considered the actual owner of property throughout.

7 (c) Pursuant to the language of §37-16-3 of this code, the rightful owner of property shall
8 receive notice anytime there is a transfer of their property, or whenever there is any document
9 filed with the county clerk that affects their land.

§37-16-3. Notice when property is transferred.

1 (a) When an owner of land transfers their property to another, the county clerk where the
2 land shall send a notice, by regular mail, that the property is being transferred. This serves as a
3 safeguard in case the owner of the property did not initiate the land transfer.

4 (b) When an individual files or modifies a quitclaim deed, a general warranty deed, or
5 special warranty deed against property, the county clerk in that county shall send a notice, by
6 regular mail, that a deed has been filed or modified, so as to provide notice to the landowner in
7 the event that this action was done by means of fraud.

NOTE: The purpose of this bill is to create the West Virginia Title Protection Act. The bill provides for legislative findings. The bill ensures that rightful property owners retain any and all titles to their property in the event that fraudulent or wrongful claims are listed against their property. The bill provides a mechanism for county clerks to provide notice to rightful landowners when property is transferred, or when titles are filed or modified against their property.

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