

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 3401**

By Delegate Barnhart

[Introduced March 17, 2025; referred to the  
Committee on Energy and Public Works]

1 A BILL to amend and reenact §40-1-8 of the code of West Virginia, 1931, as amended, relating to  
2 recorded contracts between creditors and purchasers; and providing that mineral leases  
3 shall identify and list all burdens that may potentially encumber the surface overlaying the  
4 leased minerals.

*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 Any contract in writing made in respect to real estate or goods and chattels in consideration  
2 of marriage; or any contract in writing made for the conveyance or sale of real estate, or an interest  
3 or term therein of more than five years, or any other interest or term therein, of any duration, under  
4 which the whole or any part of the corpus of the estate may be taken, destroyed, or consumed,  
5 except for domestic use, shall, from the time it is duly admitted to record, be, as against creditors  
6 and purchasers, as valid as if the contract were a deed conveying the estate or interest embraced  
7 in the contract. In lieu of the recording of a lease pursuant to this section, there may be recorded  
8 with like effect a memorandum of such lease, executed by all persons who are parties to the lease  
9 and acknowledged in the manner to entitle a conveyance to be recorded. A memorandum of lease  
10 thus entitled to be recorded shall contain at least the following information with respect to the  
11 lease: The name of the lessor and the name of the lessee and the addresses of ~~such~~ the parties as  
12 set forth in the lease; a reference to the lease, with its date of execution; a description of the leased  
13 premises in the form contained in the lease; the term of the lease, with the date of commencement  
14 and the date of termination of such term, and if there is a right of extension or renewal, the  
15 maximum period for which, or date to which, the lease may be extended, or the number of times or  
16 date to which it may be renewed and the date or dates on which such rights of extension or  
17 renewal are exercisable. Further, in the case of mineral leases, all burdens that may potentially  
18 encumber the surface overlaying the leased minerals shall be identified and listed, such as,

19 without limitation, pipelines, well pads, storage pads, equipment, fixtures, fluid impoundments,  
20 and/or access roads, if existing, or, if not existing, it shall so state that no such surface  
21 encumbrances exist. ~~Such~~ The memorandum shall constitute notice of only the information  
22 contained therein.

NOTE: The purpose of this bill is to provide recorded notice regarding possible surface encumbrances overlying minerals parcels under development.

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