

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5416

By Delegate Miller

[Introduced February 10, 2026; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §35-1-9 and §35-1-10 of the Code of West Virginia, 1931, as
 2 amended; and to amend said code by adding a new section, designated §35-1-10a,
 3 relating to religious organizations, churches, religious sects, societies, or denominations to
 4 borrow money; notice required before conveyance, sale or encumbrance of church
 5 property; and the effect of subsequent incorporation on prior conveyances and executed
 6 by trustees of a church, religious sect, society, or denomination pursuant to §35-1-9 of this
 7 code prior to the effective date of incorporation of that church or religious organization
 8 encumbrances.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. RELIGIOUS ORGANIZATIONS.

§35-1-9. Power of trustee trustees of churches, to sell, convey religious sects, societies, or denomination to borrow money and encumber property.

1 (a) The trustee or trustees of any church, religious sect, society, or denomination within this
 2 state, whenever directed by the ecclesiastical officer or the delegated or select body to whom the
 3 authority to administer the affairs of such church, religious sect, society, or denomination is
 4 committed by its rules and ecclesiastical polity, or the trustee or trustees of any individual church,
 5 parish, congregation or branch of any religious sect, society or denomination within this state,
 6 whenever directed by a majority of the members of such individual church, parish, congregation or
 7 branch who are over eighteen years of age, or by the ecclesiastical officer or the delegated or
 8 select body to whom the authority to administer the affairs of such church, parish, congregation or
 9 branch is committed by the rules and ecclesiastical polity of such church, religious sect, society or
 10 denomination, may sell and convey any property, real or personal owned by such church, religious
 11 sect, society or denomination, or by such individual church, parish, congregation or branch, as the
 12 case may be, or upon like direction, may borrow money and execute a lien upon the church
 13 property to secure the payment thereof; and all conveyances so made, or liens so executed, by the
 14 persons who appear from the records in the office of the county clerk to be the trustee or trustees

15 of the religious body making such conveyances or executing such liens, shall be effective to pass
16 from such trustee or trustees such title or interest in the property under his or her or their control as
17 is purported to be conveyed or passed by such conveyances or instruments of lien, and shall not
18 be invalidated or affected by any defect or informality in the proceedings for the selection or
19 appointment of such person or persons as trustee or trustees, or by any want of authority or lack of
20 power in such trustee or trustees.

21 (b) Applicability. The provisions of this section apply only to churches, religious sects,
22 societies, or denominations that are not incorporated under the laws of this state or any other
23 jurisdiction.

24 (c) Incorporated churches excluded. This section does not apply to any church, religious
25 sect, society, or denomination that is organized as a corporation, including but not limited to
26 nonprofit religious corporations organized under chapter 31E of this code or any successor
27 statute.

28 (d) Governance of incorporated churches. Any church, religious sect, society, or
29 denomination that is incorporated shall exercise the power to borrow money, convey, mortgage, or
30 otherwise encumber real or personal property in accordance with its articles of incorporation,
31 bylaws, and the applicable provisions of the nonprofit corporation laws of this state, and shall not
32 be subject to the requirements of this section.

§35-1-10. Notice required before of conveyance, sale, or lien; proof thereof or encumbrance
of church property.

33 (a) Before any such conveyance of real estate or instrument creating a lien thereon shall
34 be made, the proper authorities of such church, religious sect, society, or denomination, or of any
35 individual church, parish, congregation or branch, shall cause to be published a notice describing
36 the real estate and stating that the same will be sold and conveyed, or subjected to a lien, as the
37 case may be, on or following a designated date. Such notice shall be published as a Class II legal
38 advertisement in compliance with the provisions of article three, chapter fifty- nine of this code, and

39 the publication area for such publication shall be the county where the land is situated. In lieu of
40 such publication, the notice may be read at the principal services of such church, parish,
41 congregation or branch, on at least two separate occasions during a period of two weeks. No
42 conveyance or instrument creating a lien shall be made or become effective until such notice shall
43 be published or read, as aforesaid. An affidavit setting forth the facts regarding such publication or
44 reading, shall accompany, and be recorded with, any deed of conveyance or instrument creating a
45 lien, and shall be sufficient proof of the facts therein set forth.

46 (b) Applicability. The notice requirements of this section apply only to churches, religious
47 sects, societies, or denominations that are not incorporated under the laws of this state or any
48 other jurisdiction.

49 (c) Incorporated churches excluded. This section does not apply to any church, religious
50 sect, society, or denomination that is organized as a corporation including nonprofit religious
51 corporations organized under Chapter 31E of this code or any successor statute.

52 (d) Incorporated churches governed by corporate law. Any incorporated church, religious
53 sect, society, or denomination shall provide notice, authorization, and approval for the
54 conveyance, sale, mortgage, lien, or other encumbrance of real or personal property in
55 accordance with its articles of incorporation, bylaws, and applicable provisions of the nonprofit
56 corporation laws of this state, and may not be subject to the notice requirements of this section.

57 (e) This section shall be read in pari materia with §35-1-8.

§35-1-10a. Effect of subsequent incorporation on prior conveyances and encumbrances.

1 (a) Any conveyance, mortgage, deed of trust, lien, or other encumbrance of real or
2 personal property executed by trustees of a church, religious sect, society, or denomination
3 pursuant to §35-1-9 prior to the effective date of incorporation of that church or religious
4 organization is valid, enforceable, and shall not be impaired by the subsequent incorporation of the
5 church or religious organization.

6 (b) The subsequent incorporation of a church, religious sect, society, or denomination
7 does not require reauthorization, ratification, republication of notice, or rerecording of any
8 conveyance or encumbrance lawfully executed under §35-1-9 and 35-1-10 prior to incorporation.

9 (c) Upon incorporation, all rights, obligations, liabilities, and interests relating to any
10 conveyance or encumbrance described in subsection (a) of this section vest in and are assumed
11 by the incorporated entity by operation of law, unless otherwise provided in the articles of
12 incorporation or a written assumption agreement.

13 (d) Nothing in this section affects the rights of any lender, purchaser, trustee, or third party
14 who relied in good faith on the validity of a conveyance or encumbrance executed prior to
15 incorporation.

16 (e) Legislative Intent. The Legislature intends this section ensure continuity of title,
17 protection of third parties, and orderly transition from trustee-based governance to corporate
18 governance for churches and religious organizations.

NOTE: The purpose of this bill is to ensure continuity of title, protection of third parties, and orderly transition from trustee-based governance to corporate governance for churches and religious organizations.

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