

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5512

FISCAL
NOTE

By Delegates Lucas, Dean, Clark, Crouse, Worrell,

Hall, Fehrenbacher, Brooks, and Adkins

[Introduced February 13, 2026; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §39-4-2, §39-4-4, §39-4-7, and §39-4-22 of the Code of West
 2 Virginia, 1931, as amended; to amend the code by adding a new section, designated §39-
 3 4-40; and to amend the code by adding a new article, designated §30-38C-1, §30-38C-2,
 4 §30-38C-3, §30-38C-4, §30-38C-5, §30-38C-6, and §30-38C-7, relating to land
 5 records; providing definitions; clarifying the authority of a recorder; establishing recorder
 6 liability; creating a property alert notification system; creating criminal and enhanced civil
 7 penalties; clarifying the authority of a notarial officer; establishing requirements to obtain
 8 an official stamp; and requiring education for notaries.

Be it enacted by the Legislature of West Virginia:

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 38C. SUSPICIOUS REAL PROPERTY DOCUMENTS SUBMITTED FOR RECORDING.

§30-38C-1. Definitions.

1 As used in this article:

2 "Document" means information inscribed on a tangible medium or stored in an electronic
 3 or other medium and retrievable in perceivable form.

4 "Trusted submitter" means a title insurer, title company or title agent, licensed escrow
 5 company, attorney licensed to practice in this state, and a regulated financial institution.

6 "Suspicious Document" means a document submitted for recording for which the recorder
 7 has found any one of the following:

8 (A) The name or commission information of a notarial officer who has purported to
 9 acknowledge or verify the document does not match official commission records;

10 (B) The document purports not to be subject to the laws of the United States or this state;

11 (C) The document does not conform to recording standards established by other laws of
 12 this state; or

13 (D) The document has not been submitted for recording by a trusted submitter or an
 14 authorized representative of a trusted submitter and the document is materially false, fictitious, or
 15 fraudulent.

§30-38C-2. Authority of a recorder when presented with a suspicious document.

1 A recorder may:

- 2 (1) Refuse to record a suspicious document, unless a court of competent jurisdiction finds
 3 that recorder’s finding that the document is a suspicious document is erroneous;
- 4 (2) Report a suspicious document to any appropriate law enforcement agency; or
- 5 (3) Notify a notarial officer who has purported to acknowledge or verify a suspicious
 6 document of the reason for the recorder’s finding that the document is a suspicious document.

§30-38C-3. Liability of a recorder.

1 An injured person has a cause of action against a recorder for the refusal to record a
 2 document based on an allegedly erroneous finding that the document is a suspicious document. In
 3 an action authorized by this section, an injured person is entitled to appropriate declaratory or
 4 injunctive relief. A recorder is not liable for damages or any other claim for monetary relief in an
 5 action brought under this section.

§30-38C-4. Property alert notification system.

1 (a) Not later than January 1, 2027 each recorder shall establish a property alert notification
 2 system that allows a person to enroll real property owned by the person in the system.

3 (b) A property alert notification system established under this section shall:

4 (1) Notify the enrolled owner of the recording of any document describing, affecting, or
 5 purporting to affect the enrolled property; and

6 (2) In the notification required by subdivision (1) identify the nature of the document
 7 recorded, identify the subject property by address or tax identification number, and provide the
 8 recording information of the document.

9 (c) A property owner may elect to receive any notification provided under this section by

10 mail, text message, call, or email.

11 (d) There shall be no charge to a property owner for enrolling in the document alert
12 notification system.

13 (e) The recorder may by mail notification, website notification, newspaper advertisement,
14 or other media provide notaries with:

15 (1) Educational information on deed fraud; and

16 (2) Information about the property alert notification system established under this section.

17 (f) The recorder is not liable for a violation of this section, no person shall have a right or
18 cause of action, and a recorder is not liable with respect to the establishment, maintenance, or
19 operation of a property alert notification system required by this section.

§30-38C-5. Information included in a searchable log.

1 (a) A recorder may index or by other means create a searchable log that includes the
2 following information for each document recorded in the land records:

3 (1) Information identifying real property described in or purported to be affected by the
4 document;

5 (2) The name and commission number, if applicable, of any notarial officer described in or
6 identified in the document, along with commissioning jurisdiction of such officer; or

7 (3) The name of the person that submitted the document for recording.

8 (b) An index or log created under subsection (a) may be made available for public search
9 and examination in the same manner as any other index for the land records required by other law
10 of this state.

§30-3C-6. Penalties for deed fraud.

1 (a) A person commits deed theft when he or she:

2 (1) Intentionally alters, falsifies, forges, or misrepresents a property document such as a
3 residential or commercial deed or title, with the intent to deceive, defraud or unlawfully transfer or
4 encumber the ownership rights of a residential or commercial property;

5 (2) With intent to defraud, misrepresents themselves as the owner or authorized
6 representative of residential or commercial real property to induce others to rely on such false
7 information in order to obtain ownership or possession of such real property; or

8 (3) With intent to defraud, takes, obtains, steals, or transfers title or ownership of real
9 property by fraud, forgery, larceny, or any other fraudulent or deceptive practice.

10 (b) A person is guilty of grand larceny in the first degree when such person commits deed
11 theft, regardless of the value, of:

12 (1) Residential real property that is occupied as a home by at least one person;

13 (2) Residential real property that involves a home that is owned by an elderly person, an
14 incompetent, an incapacitated person, or physically disabled person; or

15 (3) Three or more residential real properties.

16 A person is guilty of grand larceny in the second degree when he or she steals property
17 and when such person commits deed theft, regardless of the value, of:

18 (1) One residential real property;

19 (2) One commercial mixed-use property with at least one residential unit; or

20 (3) Two or more commercial properties.

§30-3C-7. Enhanced civil damages for deed fraud.

1 (a) In addition to any judgment quieting title, cancelling a recorded document, or providing
2 declaratory relief, a party alleging damages arising from the recording of a forged deed or
3 mortgage has a cause of action against any of the following:

4 (1) The person who forged the signature of a property owner on a deed or mortgage;

5 (2) A person who, with actual knowledge that the deed or mortgage included a forged
6 signature, submitted the document to be recorded in the land records; or

7 (3) A person with actual knowledge that the vested title to the real property is based on a
8 forged deed, and who purports to sell or encumber the property to someone who is unaware of the
9 forged deed.

10 (b) In an action against a person described in subsection (a), a person whose title was
 11 purportedly transferred or encumbered by a forged deed or mortgage, or a person who
 12 subsequently relied on a forged deed to purchase or encumber the property without knowledge of
 13 the forgery, shall be entitled to a monetary judgment consisting of the following:

14 (1) Compensatory damages;

15 (2) Punitive damages in an amount not less than two times the compensatory damages;

16 and

17 (3) Actual attorney's fees and costs incurred.

CHAPTER 39. RECORDS AND PAPERS.

ARTICLE 4. REVISED UNIFORM LAW ON NOTARIAL ACTS.

§39-4-2. Definitions.

1 In this article:

2 (1) "Acknowledgment" means a declaration by an individual before a notarial officer that
 3 the individual has signed a record for the purpose stated in the record and, if the record is signed in
 4 a representative capacity, that the individual signed the record with proper authority and signed it
 5 as the act of the individual or entity identified in the record.

6 (2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless,
 7 optical, electromagnetic or similar capabilities.

8 (3) "Electronic signature" means an electronic symbol, sound or process attached to or
 9 logically associated with a record and executed or adopted by an individual with the intent to sign
 10 the record.

11 (4) "In a representative capacity" means acting as:

12 (A) An authorized officer, agent, partner, trustee or other representative for a person other
 13 than an individual;

14 (B) A public officer, personal representative, guardian or other representative, in the

15 capacity stated in a record;

16 (C) An agent or attorney-in-fact for a principal; or

17 (D) An authorized representative of another in any other capacity.

18 ~~(5)~~ "Notarial act" means an act, whether performed with respect to a tangible or electronic
19 record, that a notarial officer may perform under the law of this state. The term includes taking an
20 acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation,
21 witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a
22 negotiable instrument.

23 ~~(6)~~ "Notarial officer" means a notary public or other individual authorized to perform a
24 notarial act.

25 ~~(7)~~ "Notary public" means an individual commissioned to perform a notarial act by the West
26 Virginia Secretary of State.

27 ~~(8)~~ "Official stamp" means a physical image affixed to or embossed on a tangible record or
28 an electronic image attached to or logically associated with an electronic record.

29 ~~(9)~~ "Person" means an individual, corporation, business trust, statutory trust, estate, trust,
30 partnership, limited liability company, association, joint venture, public corporation, government or
31 governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

32 ~~(10)~~ "Record" means information that is inscribed on a tangible medium or that is stored in
33 an electronic or other medium and is retrievable in perceivable form.

34 ~~(11)~~ "Sign" means, with present intent to authenticate or adopt a record:

35 (A) To execute or adopt a tangible symbol; or

36 (B) To attach to or logically associate with the record an electronic symbol, sound or
37 process.

38 ~~(12)~~ "Signature" means a tangible symbol or an electronic signature that evidences the
39 signing of a record.

40 ~~(13)~~ "Stamping device" means:

41 (A) A physical device capable of affixing to or embossing on a tangible record an official
42 stamp; or

43 (B) An electronic device or process capable of attaching to or logically associating with an
44 electronic record an official stamp.

45 ~~(14)~~ "State" means a state of the United States, the District of Columbia, Puerto Rico, the
46 United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the
47 United States.

48 ~~(15)~~ "Verification on oath or affirmation" means a declaration, made by an individual on
49 oath or affirmation before a notarial officer, that a statement in a record is true.

§39-4-4. Authority to perform notarial act.

1 (a) A notarial officer may perform a notarial act authorized by this article or by law of this
2 state other than this article.

3 (b) A notarial officer may not perform a notarial act with respect to a record to which the
4 officer or the officer's spouse is a party, or in which either of them has a direct beneficial interest,
5 financial or otherwise. A notarial act performed in violation of this subsection is voidable.

6 (c) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law.

§39-4-17. Official stamp.

1 (a) The official stamp of a notary public must:

2 (1) Include the notary public's name, address, jurisdiction, commission expiration date and
3 other information required by the Secretary of State; and

4 (2) Be capable of being copied together with the record to which it is affixed or attached or
5 with which it is logically associated.

6 (b) A notary public shall present due proof of the notary public's commission to a vendor or
7 manufacturer for the purpose of obtaining an official stamp. The notary public shall retain the due
8 proof for five years and the manufacturer shall retain a copy of the due proof for five years.

§39-4-22. Database of notaries public.

1 (a) The Secretary of State shall maintain an electronic database of notaries public:

2 (1) Through which a person may verify the authority of a notary public to perform notarial
3 acts; and

4 (2) Which indicates whether a notary public has notified the Secretary of State that the
5 notary public will be performing notarial acts on electronic records.

6 (b) Not later than ~~thirty~~ 30 days after a notary public either:

7 (1) Changes the address of his or her business or residence; or

8 (2) Changes his or her name, the notary public shall notify the Secretary of State of the
9 address or name change.

§39-4-39. Education for notaries.

1 (a) Within six months of applying for a notary public commission, each applicant shall
2 satisfactorily complete a course of instruction approved by the commissioning official on notarial
3 laws, procedures, and practices of at least four hours, of which at least one hour encompasses red
4 flags and trends related to real estate fraud and elder financial exploitation, and pass an
5 examination of the course.

6 (b) Within six months prior to applying for each successive commission, an individual shall
7 satisfactorily complete a course of instruction of two hours approved by the commissioning official
8 on the laws, procedures, and practices pertaining to notarial acts, of which at least one hour
9 encompasses red flags and trends related to real estate fraud and elder financial exploitation. If an
10 individual does not successfully complete the education requirement pursuant to this paragraph,
11 the individual must satisfy the education requirement pursuant to subsection (b).

NOTE: The purpose of this bill is to address the issue of deed fraud.

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