

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

— ● —

# ENROLLED

Com. Sub. for  
HOUSE BILL No. 2054

(By Delegate W. Martin)

— ● —

Passed January 30, 1987

In Effect Ninety Days From Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2054**  
(By DELEGATE W. MARTIN)

---

[Passed January 30, 1987; in effect ninety days from passage.]

---

AN ACT to amend and reenact sections one and ten, article twelve, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to and requiring the release of liens when debt secured thereby is fully satisfied if the lien is properly recorded; requiring that such release must be provided within thirty days of a request therefor; legal action on refusal of lienholder to furnish and execute a release of lien; and attorney fees and court costs taxed against party so refusing.

*Be it enacted by the Legislature of West Virginia:*

That sections one and ten, article twelve, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 12. RELEASE AND ASSIGNMENT OF LIENS.**

**§38-12-1. When release of lien required; requisites thereof.**

- 1 (a) Every person entitled to the benefit of any lien on
- 2 any estate, real or personal, or to the money secured
- 3 thereby, whether the lien was created by conveyance,


4 judgment, decree, lis pendens, notice of attachment,  
5 deed of trust, contract or otherwise, shall be required  
6 to furnish and execute an apt and proper written release  
7 thereof free of charge to the debtor whose obligation  
8 secured by such lien has been fully paid and satisfied,  
9 if the lien is of record in the proper county. Such release  
10 shall be executed and furnished to the debtor within  
11 thirty days after the debt has been satisfied.

12 (b) Such release of lien shall be executed by the  
13 lienholder and acknowledged before the clerk of the  
14 county commission in whose office the lien is recorded  
15 or before such other person authorized to take acknowl-  
16 edgments of deeds. Such written release shall be deemed  
17 sufficient if it describe the lien to be released by any  
18 words that will identify and show an intent to discharge  
19 the same. Releases may also be made according to the  
20 provisions of section two of this article.

**§38-12-10. Action on refusal of lienholder to execute  
release.**

1 In case of the failure of the party holding such lien  
2 to furnish and execute an apt and proper release upon  
3 request of the party entitled thereto as required by  
4 section one of this article, the circuit court having  
5 jurisdiction may, on motion, after reasonable notice to  
6 the party so failing, and if no good cause be shown  
7 against it, direct the clerk of the county commission to  
8 execute such release, and it shall thereupon have the  
9 effect of releases executed under section one of this  
10 article. The proceedings shall be at the cost of the  
11 lienholder who so refuses without good cause and the  
12 court shall also award reasonable attorney fees and  
13 court costs to the person entitled to such release if such  
14 person be the prevailing party.

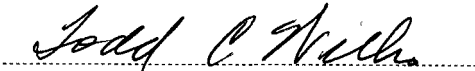
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

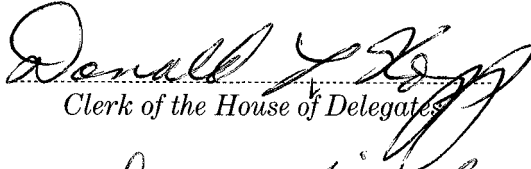
  
-----  
Chairman Senate Committee

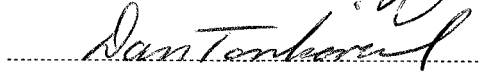
  
-----  
Chairman House Committee

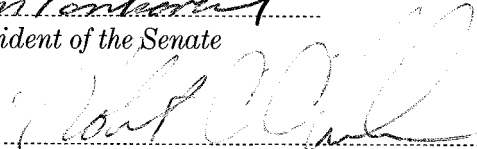
Originating in the House.

Takes effect ninety days from passage.

  
-----  
Clerk of the Senate

  
-----  
Clerk of the House of Delegates

  
-----  
President of the Senate

  
-----  
Speaker of the House of Delegates

The within approved this the 10th  
day of February, 1987.

  
-----  
Governor

PRESENTED TO THE  
GOVERNOR

Date 2/4/87

Time 9:17 a.m.

RECEIVED

1997 FEB 10 PM 2 17

OFFICE OF POSTAL SERVICE  
SECRETARY OF POSTS