WEST VIRGINIA CODE CHAPTER 37 ARTICLE 11

WV Legislature

§37-11-1. Informality in deeds and other instruments.

Any instrument, executed before this code takes effect, shall be as valid and effective as it would be, according to the provisions of section four, article three, chapter thirty-six of this code, if executed after this code takes effect.

WV Legislature

§37-11-2. Validation of instruments, acknowledgments and records.

(a) No deed or other writing conveying or purporting to convey or release or assign real estate, or any interest therein, or to create any power of attorney relating to real estate or any interest therein, heretofore made or executed and delivered by any person or persons whomsoever, or by a husband and wife to a bona fide purchaser for good and valuable consideration, and acknowledged by him or them before an officer duly authorized by law to take such acknowledgments, if such deed, writing or power of attorney was made, executed, acknowledged and delivered prior to June 7, 1955, shall be deemed, held or adjudged invalid, or defective, or insufficient in law or in equity, by reason of any informality or omission in setting forth the particulars of the acknowledgment made before such officer aforesaid in the certification thereof, or in stating the official character of such officer, or the place of taking the acknowledgment, or by reason of the fact that the wife executed such instrument prior to the execution thereof by the husband, or by reason of the fact that the parties making or executing the instrument or writing, or any of them omitted to seal the same, or by reason of the fact that the official taking the acknowledgment omitted his official seal, or by reason of the failure to set forth the date of the deed or other writing or the date of the acknowledgment in the certification thereof, or by reason of the failure to set forth correctly the date of the deed or other writing or the date of the acknowledgment in the certification thereof.

(b) If a period of five years has elapsed from the date of recordation of any deed or other writing, and if said deed or other writing has an acknowledgment considered defective for any reason, then every such deed or other writing shall be as good, valid and effectual in law as if the law with respect to acknowledgments and seals, in force at the date of such acknowledgment had been fully complied with; and the record of the same duly made in the proper office for recording deeds in the State of West Virginia, or in the state of Virginia before formation of West Virginia, and exemplifications of the same duly certified, shall be legal evidence in all cases in which the original would be competent evidence: Provided, That this section shall not apply to suits now pending and undetermined insofar as it amends laws existing at the time such pending suits were instituted, nor to any suit that may be brought within one year after the day this section takes effect, insofar as it amends laws existing at the time this section takes effect; nor shall this section apply to any deed or other writing which has heretofore been declared or held invalid by any court of competent jurisdiction.

WV Legislature

§37-11-3. Validation of acknowledgments defective in other respects.

Where the acknowledgment of any deed or other writing, or the privy examination of a married woman respecting the same, has been taken either within or without the State of West Virginia, by a notary public, justice of the peace, or president of a county court, whether he used an official seal or not, or by two justices of the peace in any county in the state of Virginia prior to the reorganization of the state government thereof, or by any justice out of his district or township, or it does not appear by the certificate of the justice that such acknowledgment or privy examination was taken within his district or township, or county, the same shall nevertheless be sufficient, unless there be other lawful objections; and the admission to record and recordation of any such deed or writing heretofore had or made upon any such acknowledgment or privy examination shall likewise be sufficient and valid unless there be other lawful objections: Provided, That this section shall not affect the rights of any party to any pending suit instituted prior to the twenty-fifth day of May, nineteen hundred and eleven.

WV Legislature

§37-11-4. Validation of records failing to comply with §9, chapter 73, code 1868.

All deeds and other writings admitted to record under chapter seventy-three of the Code of West Virginia of eighteen hundred and sixty-eight, are hereby declared to be as legal and valid as if the provisions of the ninth section of said chapter, and of all acts amendatory of said section, had been fully complied with.

WV Legislature

§37-11-5. Presumption of jurisdiction in cases of judicial sales.

When any land or any interest in land in this state has heretofore been sold, partitioned or disposed of prior to the formation of this state, under the order, judgment or decree of any court of competent jurisdiction of the state of Virginia, or has heretofore been or shall hereafter be sold, partitioned or disposed of under the order, judgment or decree of any court of competent jurisdiction of this state, it shall be presumed, in the absence of evidence to the contrary, that every such court obtained due jurisdiction in the cause by the institution of all proper proceedings and by the service or execution of proper process over any and all persons whose names appear in any part of the record of the cause as persons embraced therein or against whom the court proceeded, and this presumption shall apply to any person or persons named by the designation of child, children, heir-at-law, heirs-at-law, devisee, devisees, or other sufficient designation or classification from which it can be shown by the record or otherwise the person or persons included therein or intended thereby.

WV Legislature

§37-11-6. Presumption of authority of commissioners and certain other officers in certain cases.

When any deed has heretofore been made prior to the formation of this state for land or any interest in land therein, which purports on its face to be made under judicial proceedings of a court of the state of Virginia by a commissioner, special commissioner, guardian or other person, or when any deed has heretofore been made or shall hereafter be made for land or any interest in land in this state, which purports on its face to be made by a commissioner, special commissioner, guardian or other person under the judicial proceedings of a court of this state, then in every such case it shall be presumed, in the absence of evidence to the contrary, that the person executing such deed was authorized by the court to convey the land or interest therein which is conveyed by such deed, and if any such deed was duly, or shall hereafter be duly admitted to record in any county, and not less than ten years shall have elapsed after such record thereof, it shall be presumed, in the absence of evidence to the contrary, that the title of all persons which said deed professes to convey, under such judicial proceedings, did in fact pass by such deed.

For the purpose of this and the preceding section a court of the United States shall be deemed a court of the state within which it has been or may be held.

WV Legislature