WEST VIRGINIA CODE CHAPTER 38 ARTICLE 10

WV Legislature

§38-10-1. Recordation of federal tax lien; release; fee.

Notices of federal tax liens and certificates discharging such liens may be filed in the office of the clerk of the county commission of one or more of the counties of this state. The clerk of the county commission of every county of this state shall keep in his or her office in a bound book a federal tax lien docket, in which he or she shall, upon the filing in the office of any notice of a lien upon the property of any person in favor of the United States for the amount of any tax, including any interest, penalty, additional amount, or additions to such tax, together with any costs that may accrue in addition thereto, record such notice without delay. The clerk shall index such notice in the name of the person against whom the lien is claimed. No such tax shall be a valid lien as against any mortgagee, purchaser or judgment creditor, until such notice shall be filed in the office of the clerk of the county commission of the county or counties in which the property subject to such lien is situated.

The clerk of such county commission shall, upon the filing in his or her office of any release or partial release of such lien issued by the Internal Revenue Service, record the same and make proper marginal notation thereof in the federal tax lien docket.

The fee for filing and indexing each notice of federal tax lien, refiled notice of federal tax lien, certificate of discharge or subordination, or other notice, including a certificate of release, partial release or nonattachment of a federal tax lien, shall be $2. If a release contains more than one reference to a lien released, the fee shall be $2 for each lien released thereby. Such fees may, at the discretion of the Internal Revenue Service, be remitted quarterly on the thirty-first day of March, June 30, September 30, and December 31, and shall include all fees due for the preceding three months of the quarter for which the remittance is made.

WV Legislature

§38-10-1a. Recordation of certificates of redemption.

A certificate of redemption issued and executed under the provisions of section seven thousand four hundred twenty-five of the Internal Revenue Code of one thousand nine hundred fifty-four, enacted by the Congress of the United States (section one hundred nine of The Federal Tax Lien Act of 1966) may be recorded in the office of the clerk of the county court of the county in which the real estate being redeemed is situate. Such certificate shall be recorded in the deed books and indexed in the name of the person from whom the real estate is redeemed, as the grantor, and in the name of the United States of America, as the grantee.

WV Legislature

§38-10-2. Recordation of adjudications of bankruptcy; fee.

Certified copies of orders of decrees of adjudication of bankruptcy, made pursuant to the acts of Congress relating to bankruptcy, shall be filed in the office of the clerk of the county court of any county wherein any real estate owned by the bankrupt is situated. Such degrees shall be recorded in the deed books and indexed in the name of the bankrupt. For each such recordation the clerk shall be paid a fee of 50¢.

WV Legislature

§38-10-3. Recordation of orders approving bonds of trustees in bankruptcy; fee.

Certified copies of orders approving the bonds of trustees in bankruptcy, made by referees in bankruptcy or United States courts pursuant to the acts of Congress relating to bankruptcy, shall be filed in the office of the clerk of the county court of any county wherein any property of the bankrupt (the bond of the trustee of whose estate in bankruptcy is approved by such order) is situated or located. Such orders shall be recorded in the deed books and indexed in the names of the trustees in bankruptcy and the bankrupt. For each such recordation the clerk shall be paid a fee of 50¢.

WV Legislature

§38-10-4. Exemptions of property in bankruptcy proceedings.

Any person who files a petition under the federal bankruptcy law may exempt from property of the estate in a bankruptcy proceeding the following property:

(a) The debtor's interest, not to exceed $35,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor: *Provided*, That when the debtor is a physician licensed to practice medicine in this state under §30-3-1 *et seq*. or §30-14-1 *et seq*. of this code, and has commenced a bankruptcy proceeding in part due to a verdict or judgment entered in a medical professional liability action, if the physician has current medical malpractice insurance in the amount of at least $1 million for each occurrence, the debtor physician's interest that is exempt under this subdivision may exceed $35,000 in value but may not exceed $250,000 per household.

(b) The debtor's interest, not to exceed $7,500 in value, in one motor vehicle.

(c) The debtor's interest, not to exceed $800 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor: *Provided*, That the total amount of personal property exempted under this subdivision may not exceed $16,000.

(d) The debtor's interest, not to exceed $2,000 in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(e) The debtor's interest, not to exceed in value $800 plus any unused amount of the exemption provided under subdivision (a) of this subsection in any property.

(f) The debtor's interest, not to exceed $3,000 in value, in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor.

(g) Any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

(h) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(i) The debtor's right to receive:

(1) A Social Security benefit, unemployment compensation, or a local public assistance benefit;

(2) A veterans' benefit;

(3) A disability, illness, or unemployment benefit;

WV Legislature

(4) Alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(5) A payment under a stock bonus, pension, profit sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, and funds on deposit in an individual retirement account, including a simplified employee pension regardless of the amount of funds, unless:

(A) The plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose;

(B) The payment is on account of age or length of service;

(C) The plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986; and

(D) With respect to an individual retirement account, including a simplified employee pension, the amount is subject to the excise tax on excess contributions under Section 4973 and/or Section 4979 of the Internal Revenue Code of 1986, or any successor provisions, regardless of whether the tax is paid.

(j) The debtor's right to receive or property that is traceable to:

(1) An award under a crime victim's reparation law;

(2) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(3) All life insurance proceeds paid to the debtor as a beneficiary, any annuities, other than those annuities included in §38-10-4(i)(5), which are paid to the debtor as a beneficiary, or any annuities or life insurance policies owned by the debtor which are payable to someone other than the debtor, including any applicable cash surrender value.

(4) A payment, not to exceed $50,000 on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;

(5) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(6) Payments made to the prepaid tuition trust fund or to the savings plan trust fund, including earnings, in accordance with §18-30-1 *et seq*. of this code on behalf of any beneficiary.

WV Legislature

(k) Solely for the purpose of applying the provisions of 11 U.S.C. § 522(b)(2) in a federal bankruptcy proceeding and only to the extent otherwise allowed by applicable federal law, an individual debtor domiciled in this state may exempt from property of the debtor's bankruptcy estate the property specified under 11 U.S.C. § 522(d).

(l) The amendments made to this section during the 2023 regular session of the Legislature shall apply to bankruptcies filed on or after the effective date of those amendments.

WV Legislature