WEST VIRGINIA CODE: §38-16-401

PART IV. ACTIONS TO STRIKE OR REMOVE NONCONSENSUAL COMMON LAW LIEN.

§38-16-401. Notice by clerk of fraudulent lien.

(a) If a clerk of the county commission has a reasonable basis to believe in good faith that a document or instrument purporting to evidence an invalid nonconsensual common law lien has been filed or recorded or offered for filing or recording, the clerk shall provide a written notice as follows:

(1) If the document is a purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of a purported court, the clerk shall provide written notice of the filing, recording, or submission for filing or recording to the stated or last known address of the person against whom the purported judgment, act, order, directive, or process is rendered; or

(2) If the document or instrument purports to create a lien or assert a claim on real or personal property or an interest in real or personal property, provide written notice of the filing, recording, or submission for filing or recording to the stated or last known address of the person named in the document or instrument as the obligor or debtor and to any person named as owning any interest in the real or personal property described in the document or instrument.

(b)(1) If the document is not yet filed or recorded, the clerk shall provide written notice under subsection (a) not later than the second business day after the date that the document is submitted for filing or recording; or

(2) If the document or instrument has been previously filed or recorded, the clerk shall provide written notice under subsection (a) not later than the second business day after the date that the clerk becomes aware that the document or instrument may be fraudulent.

(c) For purposes of this section, a document or instrument is presumed to be fraudulent if:

(1) The document is styled as a judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of a purported court; or

(2) The document or instrument purports to create a lien or security interest or otherwise create a charge against real or personal property and:

(A) It is not a document or instrument provided for by the Constitution or laws of this state or of the United States;

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(B) It is not created by implied or express consent or agreement of the alleged obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property, or by implied or express consent or agreement of an agent, fiduciary, or other representative of that person; or

(C) It is not an equitable, constructive, or other lien imposed by a court of competent jurisdiction.

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