

4277- Veto

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

— ● —

ENROLLED

Com. Sub. for

HOUSE BILL No. *4277*

(By ~~Mr.~~ *Delegate Rollins*)

— ● —

Passed *March 11* 1988

In Effect *Ninety Days from* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4277
(By DELEGATE ROLLINS)

[Passed March 11, 1988; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article ten, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said chapter thirty-eight by adding thereto a new article, designated article ten-a, relating to the filing and recordation of federal tax liens and other federal liens generally; providing for an increase from twenty-five cents to two dollars in the fee for the recordation by the county clerk of any release or partial release of a federal tax lien, and providing a quarterly schedule for the payment of such fees by the Internal Revenue Service; providing for the filing of notices of liens, certificates, and other notices affecting federal liens for which the filing thereof is not otherwise provided; identifying the place of filing for federal liens upon real and personal property; providing for the certification of notices of liens, certificates, or other notices affecting federal liens; prescribing the duties of the clerk of the county commission, and establishing fees for indexing and filing.

Be it enacted by the Legislature of West Virginia:

That section one, article ten, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, be amended and reenacted, and that said chapter thirty-eight be further amended by adding thereto a new article, designated article ten-a, all to read as follows:

ARTICLE 10. FEDERAL TAX LIENS; ORDERS AND DECREES IN BANKRUPTCY.

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

1 Notices of federal tax liens and certificates discharg-
2 ing such liens may be filed in the office of the clerk of
3 the county commission of one or more of the counties of
4 this state. The clerk of the county commission of every
5 county of this state shall keep in his or her office in a
6 bound book a federal tax lien docket, in which he or she
7 shall, upon the filing in the office of any notice of a lien
8 upon the property of any person in favor of the United
9 States for the amount of any tax, including any interest,
10 penalty, additional amount, or additions to such tax,
11 together with any costs that may accrue in addition
12 thereto, record such notice without delay. The clerk
13 shall index such notice in the name of the person against
14 whom the lien is claimed. No such tax shall be a valid
15 lien as against any mortgagee, purchaser or judgment
16 creditor, until such notice shall be filed in the office of
17 the clerk of the county commission of the county or
18 counties in which the property subject to such lien is
19 situated.

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

25 No fee shall be charged by the clerk for recording a
26 notice of lien in favor of the United States for the
27 amount of any tax, but he or she shall charge a fee of
28 two dollars for recording a release or partial release of
29 such lien. If a release contains more than one reference
30 to a lien released, the fee shall be two dollars for each
31 lien released thereby. The Internal Revenue Service
32 shall remit the fees to the appropriate clerk for all
33 releases or partial releases recorded. Such fees may, at
34 the discretion of the Internal Revenue Service, be

35 remitted quarterly on the thirty-first day of March, the
36 thirtieth day of June, the thirtieth day of September and
37 the thirty-first day of December and shall include all
38 fees due for the preceding three months of the quarter
39 for which the remittance is made.

ARTICLE 10A. FEDERAL LIEN REGISTRATION.

§38-10A-1. Scope.

1 This article applies only to federal lien notices which
2 under any Act of Congress or any regulation adopted
3 pursuant thereto are required or permitted to be filed
4 in the same manner as notices of federal tax liens.

§38-10A-2. Place of filing.

1 (a) Notices of liens, certificates, and other notices
2 affecting federal liens, for which filing thereof is not
3 otherwise provided for under the provisions of this code,
4 must be filed in accordance with this article.

5 (b) Notices of liens upon real property for obligations
6 payable to the United States and certificates and notices
7 affecting the liens shall be filed in the office of the clerk
8 of the county commission of the county in which the real
9 property subject to the liens is situated.

10 (c) Notices of federal liens upon personal property,
11 whether tangible or intangible, for obligations payable
12 to the United States and certificates and notices
13 affecting the liens shall be filed in the office of the clerk
14 of the county commission of the county wherein the
15 person against whose interest the lien applies resides at
16 the time of filing of the notice of lien. For purposes of
17 this subsection, the residence of a corporation or a
18 partnership shall be deemed to be the place at which
19 the principal executive office is located.

§38-10A-3. Execution of notices and certificates.

1 Certification of notices of liens, certificates, or other
2 notices affecting federal liens by the secretary of the
3 treasury of the United States or his delegate, or by any
4 official or entity of the United States responsible for
5 filing or certifying of notice of any other lien, entitles
6 them to be filed and no other attestation, certification,

7 or acknowledgement is necessary.

§38-10A-4. Duties of filing officer.

1 (a) If a notice of federal lien, a refiling of a notice of
2 federal lien, or a notice of revocation of any certificate
3 described in subsection (b) is presented to the clerk of
4 the county commission, he shall endorse thereon his
5 identification and the date and time of receipt, file the
6 same, and forthwith enter and record the fact of such
7 filing in the index maintained for the public indexing
8 of federal liens in such a manner that a reasonable
9 inspection of the index will reveal the existence of the
10 instrument.

11 (b) If a refiled notice of federal lien referred to in
12 subsection (a) or a certificate of release, nonattachment,
13 discharge, or subordination of any lien is presented to
14 the clerk of the county commission for filing, he shall
15 endorse thereon his identification and the date and time
16 of receipt, file the same, enter and record the fact of
17 such filing in the index maintained for the public
18 indexing of federal liens, and enter and record the fact
19 of such filing in the public index on the line where the
20 original notice of lien is entered.

21 (c) Upon request of any person, the clerk of the county
22 commission shall issue his certificate showing whether
23 there is on file, on the date and hour stated therein, any
24 notice of lien or certificate or notice affecting any lien
25 filed under this article or previous federal tax lien
26 registration act, naming a particular person, and if a
27 notice or certificate is on file, giving the date and hour
28 of filing of each notice or certificate. The fee for a
29 certificate is \$2.00. Upon request, the filing officer shall
30 furnish a copy of any notice of federal lien, or notice or
31 certificate affecting a federal lien, for a fee of \$1.00 per
32 page.

§38-10A-5. Fees.

1 The fee for filing and indexing each notice of lien or
2 certificate or notice affecting the lien is:

3 (1) For a lien on real estate, \$2.00;

4 (2) For a lien on tangible and intangible personal
5 property, \$2.00;

6 (3) For a certificate of discharge or subordination,
7 \$2.00; and

8 (4) For all other notices, including a certificate of
9 release or nonattachment, \$2.00.

10 The clerk of the county commission shall bill the
11 appropriate federal officials on a quarterly basis for fees
12 for documents filed by them.

*to be completed
by the school*

Enr. Com. Sub. for H. B. 4277] 6

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

Steve O. Williams
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Judd C. Hillis
Clerk of the Senate

Donald G. Kopp
Clerk of the House of Delegates

Don Tordella
President of the Senate

[Signature]
Speaker of the House of Delegates

The within *disappeared* this the *31st*
March day of _____, 1988.

Archie Shanley
Governor

PRESENTED TO THE
GOVERNOR

Date 3/22/88

Time 11:17 a.m.

RECEIVED

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OFFICE OF THE
SECRETARY OF WAR