

NO. 2005

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



ENROLLED

Com. Sub. for
HOUSE BILL No. 2005

(By Mr. Del. Love + Roof)



Passed March 7, 1989

In Effect Ninety Days From Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2005

(By DELEGATES LOVE AND ROOP)

[Passed March 7, 1989; 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 in the fees for the recordation by the county clerk of any notice of federal tax lien, refiled notice of federal tax lien, certificate of discharge or subordination, or other notices including a certificate of release, partial release or nonattachment 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 The fee for filing and indexing each notice of federal
26 tax lien, refiled notice of federal tax lien, certificate of
27 discharge or subordination, or other notice, including a
28 certificate of release, partial release or nonattachment
29 of a federal tax lien, shall be two dollars. If a release
30 contains more than one reference to a lien released, the
31 fee shall be two dollars for each lien released thereby.

32 Such fees may, at the discretion of the Internal Revenue
33 Service, be remitted quarterly on the thirty-first day of
34 March, the thirtieth day of June, the thirtieth day of
35 September and the thirty-first day of December and
36 shall include all fees due for the preceding three months
37 of the quarter 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 or her delegate, or
4 by any official or entity of the United States responsible
5 for 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 the clerk of the county commission.

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, the clerk shall endorse thereon
5 his or her identification and the date and time of receipt,
6 file the same, and forthwith enter and record the fact
7 of such filing in the index maintained for the public
8 indexing of federal liens in such a manner that a
9 reasonable inspection of the index will reveal the
10 existence of the 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, the clerk
15 shall endorse thereon his or her identification and the
16 date and time of receipt, file the same, enter and record
17 the fact of such filing in the index maintained for the
18 public indexing of federal liens, and enter and record
19 the fact of such filing in the public index on the line
20 where the original notice of lien is entered.

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

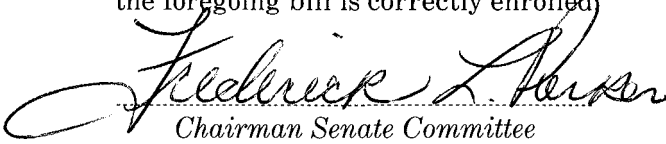
6 (3) For a certificate of discharge or subordination,
7 \$2.00; and

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.

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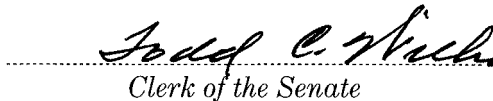
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled

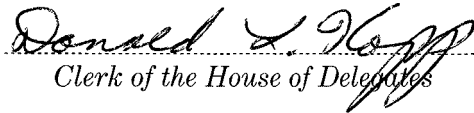

Chairman Senate Committee

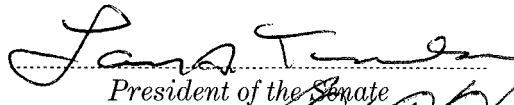

Chairman House Committee

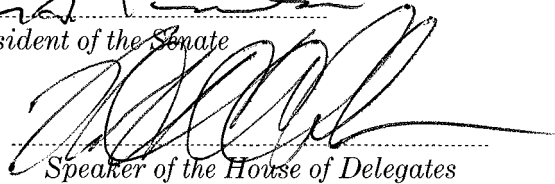
Originating in the House.

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 *is approved* this the *18th*
day of *March* 1989.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/13/84

Time 2:04