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West Virginia Deed of Trust Drafting Notes

1. If Grantor is married, please make sure both spouses execute the document.
2. The Deed of Trust is silent as to whether it secures **immigration bond premiums**. For maximum protection against the argument that the Deed of Trust cannot secure bail bond premiums, consider adding a specific exclusion for bail bond premiums in the first paragraph after the word "liabilities" so that it reads as follows: "liabilities (excluding, however, any bail bond premiums)" If this parenthetical is not included, there is a risk that Grantor may prevail in arguing that the Deed of Trust impermissibly secures a bail bond premium. On the other hand, if you want the strongest argument that unpaid premiums are covered by the Deed of Trust, you should add the Promissory Note and Installment Payment Plan for Unpaid Premium to the definition of "Agreements". If this language is not added, the debtor may have an argument that unpaid premiums are not covered by the Deed of Trust. Lexington National does not opine whether any state or federal mortgage licensing laws apply to securing unpaid premium with a mortgage or deed of trust.
3. Either a corporation or a person may be a trustee, but (a) if the trustee is a person, the trustee must be a state resident, and (b) if the trustee is a corporation, the corporation must have its principal office in West Virginia. Local counsel for the Beneficiary customarily serve as trustee.
4. West Virginia does not have a mortgage or documentary stamp tax.
5. West Virginia is not a community property state.