

# WEST VIRGINIA CODE: §46-2A-212

## **§46-2A-212. Implied warranty of merchantability.**

- (1) Except in a finance lease, a warranty that the goods will be merchantable is implied in a lease contract if the lessor is a merchant with respect to goods of that kind.
- (2) Goods to be merchantable must be at least such as:
  - (a) Pass without objection in the trade under the description in the lease agreement;
  - (b) In the case of fungible goods, are of fair average quality within the description;
  - (c) Are fit for the ordinary purposes for which goods of that type are used;
  - (d) Run, within the variation permitted by the lease agreement, of even kind, quality, and quantity within each unit and among all units involved;
  - (e) Are adequately contained, packaged and labeled as the lease agreement may require; and
  - (f) Conform to any promises or affirmations of fact made on the container or label.
- (3) Other implied warranties may arise from course of dealing or usage of trade.