WEST VIRGINIA CODE: §46-9-109

Subpart 2. Applicability of Article.

§46-9-109. Scope.

(a) General scope of article. -– Except as otherwise provided in subsections (c) and (d) of this section, this article applies to:

(1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(2) An agricultural lien;

(3) A sale of accounts, chattel paper, payment intangibles or promissory notes;

(4) A consignment;

(5) A security interest arising under section 2-401, 2-505, 2-711(3) or 2A-508(5) as provided in section 9-110; and

(6) A security interest arising under section 4-210 or 5-118.

(b) Security interest in secured obligation. -– The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(c) Extent to which article does not apply. -– This article does not apply to the extent that:

(1) A statute, regulation or treaty of the United States preempts this article; or

(2) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under section 5-114.

(d) Inapplicability of article. -– This article does not apply to:

(1) A landlord's lien, other than an agricultural lien;

(2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but section 9-333 applies with respect to priority of the lien;

(3) An assignment of a claim for wages, salary or other compensation of an employee;

(4) A sale of accounts, chattel paper, payment intangibles or promissory notes as part of a sale of the business out of which they arose;

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(5) An assignment of accounts, chattel paper, payment intangibles or promissory notes which is for the purpose of collection only;

(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(7) An assignment of a single account, payment intangible or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health care provider of a health care-insurance receivable and any subsequent assignment of the right to payment, but sections 9-315 and 9-322 apply with respect to proceeds and priorities in proceeds;

(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) A right of recoupment or set-off, but:

(A) Section 9-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(B) Section 9-404 applies with respect to defenses or claims of an account debtor;

(11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

(A) Liens on real property in sections 9-203 and 9-308;

(B) Fixtures in section 9-334;

(C) Fixture filings in sections 9-501, 9-502, 9-512, 9-516, and 9-519; and

(D) Security agreements covering personal and real property in section 9-604;

(12) An assignment of a claim arising in tort, other than a commercial tort claim, but sections 9-315 and 9-322 apply with respect to proceeds and priorities in proceeds;

(13) An assignment of a deposit account in a consumer transaction, but sections 9-315 and 9-322 apply with respect to proceeds and priorities in proceeds;

(14) A transfer by a government or a governmental unit; or

(15) A transfer of security interest in any interest or right, or any portion or any interest or right in any environmental control property, environmental control charge or financing order as each term is defined in section four-e, article two, chapter twenty-four of this code.

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