WEST VIRGINIA CODE: §46-9-323

§46-9-323. Future advances.

(a) When priority based on time of advance. Except as otherwise provided in subsection (c) of this section, for purposes of determining the priority of a perfected security interest under section 9-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) Is made while the security interest is perfected only:

(A) Under section 9-309 when it attaches; or

(B) Temporarily under section 9-312(e), (f) or (g); and

(2) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under section 9-309 or 9-312(e), (f) or (g).

(b) Lien creditor. Except as otherwise provided in subsection (c) of this section, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five days after the person becomes a lien creditor unless the advance is made:

(1) Without knowledge of the lien; or

(2) Pursuant to a commitment entered into without knowledge of the lien.

(c) Buyer of receivables. Subsections (a) and (b) of this section do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles or promissory notes or a consignor.

(d) Buyer of goods. Except as otherwise provided in subsection (e) of this section, a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(1) The time the secured party acquires knowledge of the buyer's purchase; or

(2) Forty-five days after the purchase.

(e) Advances made pursuant to commitment: priority of buyer of goods. Subsection (d) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five-day period.

(f) Lessee of goods. Except as otherwise provided in subsection (g) of this section, a lessee of

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goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(1) The time the secured party acquires knowledge of the lease; or

(2) Forty-five days after the lease contract becomes enforceable.

(g) Advances made pursuant to commitment: priority of lessee of goods. Subsection (f) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five-day period.

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