## WEST VIRGINIA CODE: §46-9-324

## §46-9-324. Priority of purchase-money security interests.

- (a) General rule: purchase-money priority. Except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in section 9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty days thereafter.
- (b) Inventory purchase-money priority. Subject to subsection (c) and except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in section 9-330, and, except as otherwise provided in section 9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:
- (1) The purchase-money security interest is perfected when the debtor receives possession of the inventory;
- (2) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;
- (3) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and
- (4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.
- (c) Holders of conflicting inventory security interests to be notified. Subsection (b)(2) through (4), inclusive, of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:
- (1) If the purchase-money security interest is perfected by filing, before the date of the filing; or
- (2) If the purchase-money security interest is temporarily perfected without filing or possession under section 9-312(f), before the beginning of the twenty-day period thereunder.
- (d) Livestock purchase-money priority. Subject to subsection (e) of this section and except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in *May 18, 2024*Page 1 of 2

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the same livestock, and, except as otherwise provided in section 9-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

- (1) The purchase-money security interest is perfected when the debtor receives possession of the livestock;
- (2) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;
- (3) The holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and
- (4) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.
- (e) Holders of conflicting livestock security interests to be notified. Subsection (d)(2) through (4), inclusive, of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:
- (1) If the purchase-money security interest is perfected by filing, before the date of the filing; or
- (2) If the purchase-money security interest is temporarily perfected without filing or possession under section 9-312(f), before the beginning of the twenty-day period thereunder.
- (f) Software purchase-money priority. Except as otherwise provided in subsection (g) of this section, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in section 9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.
- (g) Conflicting purchase-money security interests. If more than one security interest qualifies for priority in the same collateral under subsection (a), (b), (d) or (f) of this section:
- (1) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and
- (2) In all other cases, section 9-322(a) applies to the qualifying security interests.