WEST VIRGINIA CODE: §55-2-5

§55-2-5. Enforcement of liens reserved by conveyance or created by deed of trust or mortgage on real estate.

(a) Any lien reserved by any conveyance of real estate or created by any deed of trust or mortgage on real estate expires after the following periods of time, unless suit to enforce the lien is instituted prior to expiration of the time period or unless the lien is extended as specified in subsection (b) or (e) of this section:

(1) If the final maturity date of the obligation is ascertainable from the lien instrument, the lien expires five years after that date.

(2) If the final maturity date of the obligation is not ascertainable from the lien instrument, the lien expires thirty-five years after the date of the lien instrument. However, if the lienholder rerecords the lien instrument prior to thirty-five years from the date of the lien instrument and includes a copy of the obligation secured by the lien so that the final maturity is ascertainable, the lien expires five years after the date of maturity.

(b) If an affidavit or extension notice executed by the secured party or beneficiary of the lien instrument or an amendment to the lien instrument executed by the grantor or mortgagor and the secured party or beneficiary is recorded prior to expiration of the original period of limitation, as specified in subsection (a) of this section, the period of limitation is extended as follows:

(1) If the final maturity date of the obligation, as extended, secured by the lien instrument is ascertainable from the affidavit, extension notice or amendment, the lien expires five years after the date of final maturity of the obligation, as extended.

(2) If the final maturity date of the obligation, as extended, secured by the lien instrument is not ascertainable from the affidavit, extension notice or amendment, the lien expires thirty-five years after the date of the lien instrument. However, if the lienholder rerecords the lien instrument prior to thirty-five years from the date of the lien instrument and includes a copy of the obligation secured by the lien so that the final maturity is ascertainable, the lien expires five years after the date of maturity.

(c) Any affidavit, extension notice or amendment filed pursuant to subsection (b) of this section after the effective date of this section, shall include, but is not limited to, the following:

(1) The unpaid balance of the debt and interest secured by the lien instrument;

(2) The final maturity date of the obligation, as extended; and

(3) The book and page of recordation of the original lien instrument.

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The clerk of the county commission shall record and index any affidavit, extension notice or amendment in the same manner as the original lien instrument and shall note that filing on the margin of the page where the original lien instrument is recorded.

(d) If the lien instrument shows that it secures an obligation payable in installments and the maturity date of the final installment of the obligation is ascertainable from the lien instrument, the time runs from the maturity date of the final installment.

(e) For purposes of this section only, a lien instrument securing an obligation which is payable on demand expresses no maturity date.

(f) Nothing in this section extinguishes any lien which was reserved or created and in effect prior to July 1, 1998. With respect to any lien reserved or created and in effect prior to July 1, 1998, the lien is valid for twenty years after its stated maturity, or if no maturity date is stated in the lien instrument, for thirty-five years after the date of the lien instrument.

(g) The periods of limitation created by this section may be extended only as provided in this section and may not be extended by any other method or by operation of law.

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