

Rec., Mar. 11, 1933

163

ENROLLED BILL

Regular Session

SENATE BILL NO. 163

By Mr. Wenderson

PASSED March 11, 1933

IN EFFECT nineteen days from PASSAGE

Originating in the Senate Takes effect on the day of passage Passage.

Donor Clerk. Geo. A. DeLoach Clerk of the House of Delegates.

CORRECTLY ENROLLED

James E. Smith Chairman House Committee. Chairman of the Chairman Senate Committee.

ENROLLED BILL

(S. B. No. 163)

[Passed March 11, 1933; in effect ninety days from passage.]

AN ACT to amend article eleven, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto sections eighteen, nineteen and twenty, relating to liens on crops for advances for cultivation or cropping of land and their protection and providing exceptions.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted by adding thereto sections eighteen, nineteen and twenty, to read as follows:

Section 18. If any person, makes advances, either in money or supplies, or other thing of value, to anyone who is engaged

Henry D. Hyatt

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

3 in, or is about to engage in, the cultivation or cropping of
 4 land, the person so making such advances shall have a lien
 5 on the crops which may be made or seeded during the year
 6 upon the lands in or about the cultivation or cropping of
 7 which the advances so made have been or were intended to be
 8 expended, to the extent of such advances; but the person mak-
 9 ing such advances shall not have the benefit of the liens given
 10 in this section, unless there is an agreement, in writing, signed
 11 by both parties, in which there is specified the amount ad-
 12 vanced, or a limit to be fixed beyond which any advances, made
 13 from time to time during the year, shall not go, and a descrip-
 14 tion of the land cultivated or cropped, or to be cultivated or
 15 cropped, sufficient to identify it, and such agreement be filed
 16 in the office of the clerk of the county court of the county in
 17 which such land so cultivated or cropped or to be cultivated
 18 or cropped, lies, in a well-bound book to be known as "crop
 19 lien book", and alphabetically indexed therein, by such clerk,
 20 setting forth the date of the lien, a brief description of the
 21 land so cultivated or cropped, or to be cultivated or cropped,
 22 sufficient to identify the same as stated in the writing, the
 23 name of the lienor and the lienee, the amount advanced or the

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A. J. J. J. J.

Chairman Senate Committee.

James L. Smith

Chairman House Committee.

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24 limit thereof, and the crops affected; and from the time such
25 lien is so filed it shall have the same force and effect as a duly
26 recorded trust deed, and shall be valid as to purchasers with-
27 out notice from, and the creditors of, the parties or party ob-
28 taining such advances; and in the event of a sale, under a
29 trust deed or mortgage, of the land upon which any such crop
30 has been so seeded and/or may be growing, and before such
31 crop has been severed, such sale shall be made subject to such
32 crop lien: *Provided*, That whenever the crops are subject to
33 a lien of a fieri facias or attachment, whether a levy be actually
34 made or not, it shall be the duty of the person claiming a lien
35 under this section, upon the request of the sheriff, or any
36 party in interest, to render to the sheriff of the county wherein
37 the crops are grown, a complete and itemized statement, under
38 oath, of the claims for advances, showing the nature of the
39 claims, the dates of advancement and the respective amounts.
40 And in case the person claiming the advances fails to render
41 to the sheriff of such county the verified itemized statement
42 above provided for within ten days after request has been
43 made, he shall forever lose the benefit of the lien on the crops
44 for advances granted him under this section: *Provided further*,

James L. Smith
 Chairman House Committee.

Henry D. Hyatt
 Chairman Senate Committee.

45 That if the execution creditor or attachment creditor desires
 46 to contest the validity of the claims for advances, he may cause
 47 the clerk of the circuit court of the county in which such crops
 48 are grown to summons the person claiming such lien, to appear
 49 before such court and show to the satisfaction of the court that
 50 such money, supplies and other things of value were advanced
 51 for the purpose of, and were actually used in and about, the
 52 cultivation or production of the crops upon which the lien is
 53 claimed. For the services of the clerk in recording a crop lien
 54 under this section, he shall receive a fee of fifty cents.

Sec. 19. If any person to whom advances have been made,
 2 for which a lien on his crops has been obtained, under the pre-
 3 ceding section, shall be about to sell, or otherwise dispose of
 4 his crops, without having paid for the advances or secured
 5 the payment thereof, or in any way attempt to defeat the said
 6 lien, he may be restrained from so doing by injunction, and
 7 thereupon such decrees and orders may be made as shall be
 8 necessary to secure payment and satisfaction for such
 9 advances.

Sec. 20. The lien provided for in section eighteen of this
 2 article shall not affect in any manner the rights of the land-

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Chairman House Committee.

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3 lord to his proper share of rents, or his rights of distress or
4 attachment for the same, nor any lien existing at the time of
5 making the agreement mentioned in said section, which is re-
6 quired by law to be recorded and shall have been admitted to
7 record. Nor shall it affect the right of the party to whom the
8 advances have been made, to claim such part of his crops as is
9 exempt from levy or distress for rent.

James O. Harris
Chairman Senate Committee.

R. M. Thayer

Speaker of the House of Delegates

Geo. Stacey
Clerk of the House of Delegates.

A. M. Sine
President of the Senate.

James D. Smith
Clerk of the Senate.

The within is.....

this.....day of....., 1933.

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James D. Smith
Chairman House Committee.

Filed in the office of the Secretary of State
of West Virginia. **MAR 18 1933**
Wm. S. O'BRIEN,
Secretary of State

Governor.