ENROLLED BILL

Regular Session

SENATE BILL NO. 163

By Mr. Henderson

PASSED March 11, 1933

IN EFFECT ninety days from PASSAGE
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, relat­
ing 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
2 or supplies, or other thing of value, to anyone who is engaged
in, or is about to engage in, the cultivation or cropping of land, the person so making such advances shall have a lien on the crops which may be made or seeded during the year upon the lands in or about the cultivation or cropping of which the advances so made have been or were intended to be expended, to the extent of such advances; but the person making such advances shall not have the benefit of the liens given in this section, unless there is an agreement, in writing, signed by both parties, in which there is specified the amount advanced, or a limit to be fixed beyond which any advances, made from time to time during the year, shall not go, and a description of the land cultivated or cropped, or to be cultivated or cropped, sufficient to identify it, and such agreement be filed in the office of the clerk of the county court of the county in which such land so cultivated or cropped or to be cultivated or cropped, lies, in a well-bound book to be known as "crop lien book", and alphabetically indexed therein, by such clerk, setting forth the date of the lien, a brief description of the land so cultivated or cropped, or to be cultivated or cropped, or to be cultivated or cropped, sufficient to identify the same as stated in the writing, the name of the lienor and the lienee, the amount advanced or the
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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,
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-
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.
CORRECTLY ENROLLED

Speaker of the House of Delegates

Clerk of the House of Delegates.

President of the Senate.

Clerk of the Senate.

The within is

this day of , 1933.

Filed in the office of the Secretary of State of West Virginia.

MAR 18 1933

Wm. S. O'BRIEN,
Secretary of State

Governor.