WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 418

(By Mr. )

PASSED ____________ 1955

In Effect ______________

Filed in the Office of the Secretary of State of West Virginia
MAR 15 1955

D. PITT O'BRIEN
SECRETARY OF STATE
ENROLLED

House Bill No. 418
(BY MR. MAXWELL)

[Passed March 7, 1955; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, four and seven, article fourteen, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to liens of factors upon goods or merchandise, and the giving and filing of notice of such liens.

Be it enacted by the Legislature of West Virginia:

That sections two, four and seven, article fourteen, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 2. Factors' Liens Provided for; Contents of Notice of Lien.—If so provided by any written agreement, all factors shall have a continuing general lien upon all materials, goods in process, and merchandise from time to time consigned to or pledged with them, whether in
their constructive, actual or exclusive occupancy or pos-
session or not, and upon any accounts receivable or other
proceeds resulting from the sale or other disposition of
such materials, goods in process, and merchandise, for
all their loans and advances to or for the account of the
person creating the lien (hereinafter called the borrower),
together with interest thereon, and also for the com-
missions, obligations, indebtedness, charges and expenses
properly chargeable against or due from said borrower
and for the amounts due or owing upon any notes or
other obligations given to or received by them for or upon
account of any such loans or advances, interest, com-
missions, obligations, indebtedness, charges, and expenses,
and such lien shall be valid from the time of filing the
notice hereinafter referred to, whether such materials,
goods in process, or merchandise shall be in ex-
istence at the time of the agreement creating the lien
or at the time of filing such notice or shall come into
existence subsequently thereto or shall subsequently
thereto be acquired by the borrower: Provided, That a
notice of the lien is filed stating:
(a) The name of the factor, the name under which the factor does business, if an assumed name; the principal place of business of the factor within the state, or if he has no place of business within the state, his principal place of business outside this state; and if the factor is a partnership or association, the name of the partners, and if a corporation, the state under whose laws it was organized;

(b) The name of the borrower, and the interest of such person in the materials, goods in process, and merchandise, as far as known to the factor;

(c) The general character of materials, goods in process, and merchandise subject to the lien, or which may become subject thereto, and the period of time during which such loans or advances may be made under the terms of the agreement providing for such loans or advances and for such lien and the maximum amount to be loaned or advanced under such agreement. Amendments of the notice may be filed from time to time to record any changes in the information contained in the original, subsequent or amended notices.
Sec. 4. Time and Effect of Filing Notice.—Such notice shall be filed within thirty days after the making of the agreement and shall be effectual from the time of the filing thereof as against all claims of unsecured creditors of the borrower and as against subsequent liens of creditors, except that if, pursuant to the laws of this state, a lien should subsequently attach to the materials, goods in process, or merchandise in favor of a processor, dyer, mechanic, or other artisan, or in favor of a landlord, then the lien of the factor on such materials, goods in process, or merchandise shall be subject to such subsequent lien. When materials, goods in process, or merchandise subject to the lien provided for by this article are sold in the ordinary course of the business of the borrower, such lien, whether or not the purchaser has knowledge of the existence thereof, shall terminate as to the materials, goods in process, or merchandise and shall attach to the proceeds of such sale in the hands of the borrower.

Sec. 7. Common-Law Lien.—When any factor, or any third party for the account of any such factor, shall have
3 possession of materials, goods in process, or merchandise,
4 such factor shall have a continuing general lien, as set
5 forth in section two of this article, without filing the
6 notice provided for in this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect on ________ passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the ________ day of March, 1953.

William C. Marland
Governor

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

MAR 15 1955

D. Pitt O'Brien
Secretary of State