

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 418

(By Mr. Martin)

PASSED Mar 7 1955

In Effect 90 days 2 Passage

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

- 2 *Notice of Lien.*—If so provided by any written agreement,
3 all factors shall have a continuing general lien upon all
4 materials, goods in process, and merchandise from time
5 to time consigned to or pledged with them, whether in

6 their constructive, actual or exclusive occupancy or pos-
7 session or not, and upon any accounts receivable or other
8 proceeds resulting from the sale or other disposition of
9 such materials, goods in process, and merchandise, for
10 all their loans and advances to or for the account of the
11 person creating the lien (hereinafter called the borrower),
12 together with interest thereon, and also for the com-
13 missions, obligations, indebtedness, charges and expenses
14 properly chargeable against or due from said borrower
15 and for the amounts due or owing upon any notes or
16 other obligations given to or received by them for or upon
17 account of any such loans or advances, interest, com-
18 missions, obligations, indebtedness, charges, and expenses,
19 and such lien shall be valid from the time of filing the
20 notice hereinafter referred to, whether such materials,
21 goods in process, or merchandise shall be in ex-
22 istence at the time of the agreement creating the lien
23 or at the time of filing such notice or shall come into
24 existence subsequently thereto or shall subsequently
25 thereto be acquired by the borrower: *Provided*, That a
26 notice of the lien is filed stating:

27 (a) The name of the factor, the name under which
28 the factor does business, if an assumed name; the prin-
29 cipal place of business of the factor within the state, or
30 if he has no place of business within the state, his prin-
31 cipal place of business outside this state; and if the
32 factor is a partnership or association, the name of the
33 partners, and if a corporation, the state under whose
34 laws it was organized;

35 (b) The name of the borrower, and the interest of
36 such person in the materials, goods in process, and mer-
37 chandise, as far as known to the factor;

38 (c) The general character of materials, goods in pro-
39 cess, and merchandise subject to the lien, or which may
40 become subject thereto, and the period of time during
41 which such loans or advances may be made under the
42 terms of the agreement providing for such loans or ad-
43 vances and for such lien and the maximum amount to
44 be loaned or advanced under such agreement. Amend-
45 ments of the notice may be filed from time to time to
46 record any changes in the information contained in the
47 original, subsequent or amended notices.


Sec. 4. *Time and Effect of Filing Notice.*—Such notice
2 shall be filed within thirty days after the making of the
3 agreement and shall be effectual from the time of the
4 filing thereof as against all claims of unsecured creditors
5 of the borrower and as against subsequent liens of
6 creditors, except that if, pursuant to the laws of this
7 state, a lien should subsequently attach to the materials,
8 goods in process, or merchandise in favor of a processor,
9 dyer, mechanic, or other artisan, or in favor of a land-
10 lord, then the lien of the factor on such materials, goods
11 in process, or merchandise shall be subject to such sub-
12 sequent lien. When materials, goods in process, or mer-
13 chandise subject to the lien provided for by this article
14 are sold in the ordinary course of the business of the
15 borrower, such lien, whether or not the purchaser has
16 knowledge of the existence thereof, shall terminate as
17 to the materials, goods in process, or merchandise and
18 shall attach to the proceeds of such sale in the hands of
19 the borrower.

Sec. 7. *Common-Law Lien.*—When any factor, or any
2 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.

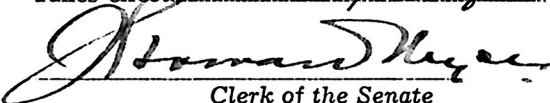
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

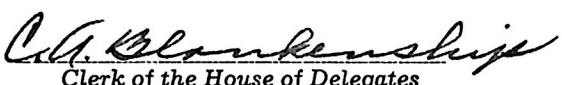

Chairman Senate Committee

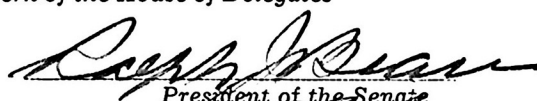

Chairman House Committee

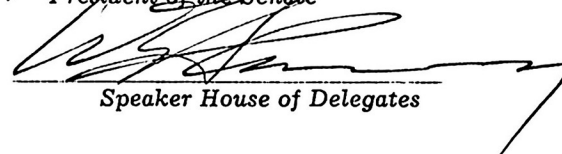
Originated in the House of Delegates

Takes effect 90 days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within approved this the 14
day of March, 1953.


Governor

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D. PITT O'BRIEN
SECRETARY OF STATE