

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1965



ENROLLED

HOUSE BILL No. 921

(By Mr. Bailey)



PASSED March 13, 1965

In Effect ninety days from Passage



FILED IN THE OFFICE OF
JOE F. BURGESS
SECRETARY OF STATE
THIS BILL 3-19-65

921

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House Bill No. 921
(By MR. BAILEY)

[Passed March 13, 1965; in effect ninety days from passage.]

AN ACT to amend and reenact section nine, article four-a, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to levy of execution, etc., upon a vehicle for which application for a certificate of title has been filed with the department of motor vehicles; requiring officer to take vehicle into actual custody in order to obtain a recorded lien with the effect of constructive notice; relating to report by levying officer and action of the department; and providing penalties.

Be it enacted by the Legislature of West Virginia:

That section nine, article four-a, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**Article 4-a. Liens and Encumbrances on Vehicles to Be Shown
on Certificate of Title; Notice to Creditors and Purchasers.**

Section 9. Levy of Execution, etc.—A levy made by
2 virtue of an execution, fieri facias or other proper court
3 order, upon a vehicle for which application for a certifi-
4 cate of title has been filed with the department, shall
5 constitute a recorded lien, with the effect of constructive
6 notice thereof to all persons, subsequent to holders of
7 liens or encumbrances theretofore filed with the depart-
8 ment, only from and after the time when the officer mak-
9 ing such levy files a report to and with the department
10 of motor vehicles, on forms provided therefor by the
11 department, that such levy has been made and that the
12 vehicle thus levied upon has been seized by and is in the
13 actual custody of such officer; and the provisions of any
14 other article, chapter or section of this code to the con-
15 trary notwithstanding, the docketing or recording of any
16 such execution, fieri facias or other court order in the
17 office of the clerk of the county court of any county in this
18 state shall not constitute constructive notice thereof as to
19 any such vehicle.

20 Such report by such officer shall show among other
21 things the full names of the parties to the proceeding
22 upon which the execution, fieri facias or court order is
23 based; the identity of the court, judge or justice of the
24 peace or other judicial officer from which said execution,
25 fieri facias or other court order was issued; the amount
26 required for the satisfaction thereof; the date thereof;
27 the date and hour when received by the officer; the
28 date, hour and minute of the levy, attachment or other
29 execution of said process and the taking into actual
30 custody of said vehicle; the date returnable; the make,
31 year, body style of the vehicle to which the lien of
32 said execution, fieri facias or court order relates as well
33 as the name of the person or persons whose interest
34 or ownership therein is intended to be affected by the
35 lien of such execution, fieri facias or court order. Such
36 report shall also show, if known, the serial number of
37 such vehicle, the current West Virginia registration card
38 number and current West Virginia registered owner
39 thereof and current West Virginia license plate number,
40 and if any item in this sentence enumerated for listing

41 on such report is unknown to the reporting officer the
42 report shall state that such item is unknown to the officer.
43 Such report shall be dated, signed and certified by the
44 reporting officer and such certification shall constitute an
45 official act on his part. The department shall by endorse-
46 ment upon or attachment to its records note the officer's
47 report and the day and hour and the minute received
48 upon its record copy of the certificate of title thereby
49 affected; should such lien be thereafter satisfied or should
50 the vehicle thus levied upon and seized be thereafter re-
51 leased by such officer, he shall immediately report that
52 fact to the department of motor vehicles and the depart-
53 ment shall in a like manner note such fact. Any owner
54 who after such levy and seizure by an officer and before
55 the report thereof by the officer to the department shall
56 fraudulently assign or transfer his title to or interest in
57 such vehicle or cause the certificate of title thereto to be
58 assigned or transferred or cause a lien or encumbrance
59 to be shown upon such certificate of title shall be deemed
60 guilty of a misdemeanor, and, upon conviction thereof,
61 shall be fined not less than twenty-five nor more than five

62 hundred dollars, or imprisoned in jail for not less than
63 ten days nor more than twelve months.

64 The actual possession of the levying or attaching officer
65 of the law or the actual possession of some person, other
66 than the judgment or attachment debtor, holding such
67 property for the officer, shall constitute notice of the lien,
68 if any, of the execution, fieri facias, or other court order
69 under which he levies and seizes or otherwise takes pos-
70 session.

71 For any vehicle as to which an involuntary lien has
72 been reported and noted by the department and for which
73 there has been no report of release or satisfaction by the
74 levying or seizing officer, if application be made for the
75 transfer of title thereto or issuance of new certificate of
76 title therefor to the current registered owner or to some-
77 one claiming by assignment of title certificate from such
78 registered owner or if application be made pursuant to
79 the provisions of this article for the endorsement upon
80 the certificate of title to such vehicle of a lien or encum-
81 brance created by the voluntary act of the owner and the
82 issuance of a new certificate of title showing the same,

83 such involuntary lien, for which the department's records
84 show no report of satisfaction or release, and the informa-
85 tion furnished in the officer's report thereof together with
86 the date, hour and minute of receipt of such report shall
87 be endorsed upon such new certificate of title issued pur-
88 suant to any of such applications.

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

A. Ray Parker

Chairman Senate Committee

James W. Loop

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Thomas Myers

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

Haward G. Carson

President of the Senate

H. S. Saw White

Speaker House of Delegates

The within *approved* this the *19*
day of *March*, 1965.

Hubert C. Sumner

Governor



Presented to Governor's Office

Nov. 19, 1965

12:00 noon