

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1973



ENROLLED

HOUSE BILL No. 1239

(By Mr. Winnamore and Mr. Stone)



PASSED April 14, 1973

In Effect Ninety days from Passage



FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 5/3/73

1239

ENROLLED

House Bill No. 1239

(By MR. DINSMORE and MR. STONE)

[Passed April 14, 1973; in effect ninety days from passage.]

AN ACT to amend and reenact sections seventeen and eighteen, article two, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to liens and mechanics' liens; specifying the extent of the priority of mechanics' liens over other liens; providing the extent to which any lien created by deed of trust or otherwise shall, however, have priority over any mechanics' lien for labor which shall have begun to be performed or for material or machinery or other necessary equipment which shall have begun to be furnished after such lien is created by deed of trust or otherwise; and relating to priority as among mechanics' lienors.

Be it enacted by the Legislature of West Virginia:

That sections seventeen and eighteen, article two, 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:

ARTICLE 2. MECHANICS' LIENS.

§38-2-17. Priority of mechanics' liens over other liens.

1 A lien authorized and created by this article shall, when
2 perfected, attach as of the date such labor, material, machinery
3 or other necessary equipment shall have begun to be fur-
4 nished, and shall have priority over any other lien secured
5 by a deed of trust or otherwise which is created subsequent to
6 such date. Each lien authorized and created by this article

7 shall be subordinate to any other lien created by a deed of
8 trust or otherwise which is duly recorded or otherwise perfected
9 to constitute constructive notice prior to the date labor,
10 material, machinery or other necessary equipment giving rise
11 to such lien shall have begun to be furnished, notwithstanding
12 the fact that some other lien authorized and created by this
13 article may have priority over such other lien created by deed
14 of trust or otherwise which is so recorded or otherwise per-
15 fected.

§38-2-18. Priority as among mechanics' lienors.

1 Of the persons acquiring liens by virtue of this article and
2 solely for determining priorities as among such persons, labor-
3 ers, artisans, mechanics, workmen and furnishers of material,
4 machinery and other necessary equipment, shall have first
5 liens, and the lien of such persons, when perfected and pre-
6 served as required by this article, shall take precedence over
7 any lien taken or to be taken by the contractor or subcontract-
8 or indebted to them for labor, material, machinery or other
9 equipment, to the extent of the amount of the lien of such
10 contractor or subcontractor, and the lien of a subcontractor
11 shall take precedence over any lien taken or to be taken by a
12 contractor indebted to him upon his subcontract, to the extent
13 of the amount of the lien of such contractor, and every assign-
14 ment or transfer by any such head contractor of his contract
15 with the owner or by any such subcontractor of his contract
16 with the contractor, or any proceeding in attachment or other-
17 wise against such head contractor or subcontractor, with the
18 purpose of encumbering or subjecting his interest in such con-
19 tract, shall be subject and subordinate to the liens of all such
20 subcontractors, laborers, workmen, artisans, materialmen and
21 furnishers of machinery and other necessary equipment who
22 shall perfect their liens according to the provisions of this
23 article. But all of such perfected liens of such laborers and
24 workmen and of such materialmen and furnishers of machin-
25 ery and of such contractors and subcontractors, respectively,
26 shall be of equal dignity without priority among themselves,
27 except as otherwise provided in this article.

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

H. Darrel Darby
Chairman Senate Committee

Lawrence C. Lehustian, Jr.
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Hawaii Carson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

H. J. Boddy
President of the Senate

Lewis F. Thomas
Speaker House of Delegates

The within *approved* this the *24th*
April, 1973.
day of _____

Anna Hauei, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 4/24/73

Time 2:34 p.m.

RECEIVED

APR 24 2 34 PM '73

CLERK OF
SENATE OF STATE
STATE OF WEST VIRGINIA