WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1973

ENROLLED

HOUSE BILL No. 1739

(By Mr. [Signature]

PASSED April 14, 1973

In Effect [Signature] from Passage

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

1239
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 perfected, attach as of the date such labor, material, machinery or other necessary equipment shall have begun to be furnished, and shall have priority over any other lien secured by a deed of trust or otherwise which is created subsequent to such date. Each lien authorized and created by this article
shall be subordinate to any other lien created by a deed of
trust or otherwise which is duly recorded or otherwise perfected
to constitute constructive notice prior to the date labor,
material, machinery or other necessary equipment giving rise
to such lien shall have begun to be furnished, notwithstanding
the fact that some other lien authorized and created by this
article may have priority over such other lien created by deed
of trust or otherwise which is so recorded or otherwise per-
fected.


Of the persons acquiring liens by virtue of this article and
solely for determining priorities as among such persons, labor-
ers, artisans, mechanics, workmen and furnishers of material,
machinery and other necessary equipment, shall have first
liens, and the lien of such persons, when perfected and pre-
served as required by this article, shall take precedence over
any lien taken or to be taken by the contractor or subcontract-
or indebted to them for labor, material, machinery or other
equipment, to the extent of the amount of the lien of such
contractor or subcontractor, and the lien of a subcontractor
shall take precedence over any lien taken or to be taken by a
contractor indebted to him upon his subcontract, to the extent
of the amount of the lien of such contractor, and every assign-
ment or transfer by any such head contractor of his contract
with the owner or by any such subcontractor of his contract
with the contractor, or any proceeding in attachment or other-
wise against such head contractor or subcontractor, with the
purpose of encumbering or subjecting his interest in such con-
tract, shall be subject and subordinate to the liens of all such
subcontractors, laborers, workmen, artisans, materialmen and
furnishers of machinery and other necessary equipment who
shall perfect their liens according to the provisions of this
article. But all of such perfected liens of such laborers and
workmen and of such materialmen and furnishers of machin-
ery and of such contractors and subcontractors, respectively,
shall be of equal dignity without priority among themselves,
except as otherwise provided 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.
Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ___________________________ this the 24th
day of ___________________________ 1973.

Governor
PRESENTED TO THE GOVERNOR

Date 4/24/73
Time 2:34 p.m.

RECEIVED

By 2:34 P.M.

SECRETARY
SECRETARY OF STATE
STATE OF WEST VIRGINIA