

No 65

RECEIVED  
MAR 23 1 54 PM '84  
OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1984



**ENROLLED**

*Committee Substitute for*  
SENATE BILL NO. 65

(By Mr. *Tucker* & Mr. *Tomplen*)



PASSED March 8, 1984

In Effect ninety days from Passage



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 65**

(By MR. TUCKER AND MR. TOMBLIN, *original sponsors*)

---

[Passed March 8, 1984; in effect ninety days from passage.]

---

AN ACT to amend article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section fourteen, relating generally to credit line deeds of trust which secure a present indebtedness and future advances; mandatory provisions of such deeds of trust; priority of such deeds of trust over all other liens created or arising after recordation of the deed of trust; certain exceptions to the priority of such deeds of trust; and the release of such deeds of trust.

*Be it enacted by the Legislature of West Virginia:*

That article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section fourteen, to read as follows:

**ARTICLE 1. VENDOR'S AND TRUST DEED LIENS.**

**§38-1-14. Future advances secured by credit line deed of trust; form; priority over other liens; release.**

1 (a) Whenever a deed of trust otherwise complying  
2 with the provisions of this article is clearly entitled at  
3 the beginning thereof either in capital letters and in  
4 language underscored, the words "A CREDIT LINE  
5 DEED OF TRUST," the deed of trust shall be, from the  
6 time it is duly recorded as required by law, security for

7 all indebtedness secured thereby at the time of recording  
8 and for all future advances secured thereby in an aggre-  
9 gate principal amount outstanding at any time not to  
10 exceed the maximum amount stated in the deed of trust,  
11 without regard to whether the future advances are con-  
12 tracted for the time of recordation of the deed of trust  
13 or whether the secured party under the deed of trust  
14 readvances principal sums repaid. The deed of trust shall  
15 also be security for interest on the principal sums and for  
16 taxes, insurance premiums and other obligations, includ-  
17 ing interest thereon, undertaken by the secured party in  
18 the deed of trust or in the related loan agreement, note or  
19 other evidences of indebtedness secured thereby. The  
20 interest, taxes, insurance premiums and other obligations  
21 when added to the total principal amount of the loans  
22 outstanding at any time may increase the amount secured  
23 by the deed of trust above the stated maximum amount.

24 (b) A credit line deed of trust, in addition to other  
25 provisions of this code, shall conform with the follow-  
26 ing:

27 (1) The deed of trust shall contain specific provisions  
28 permitting or requiring future advances;

29 (2) At no time may the unpaid principal balance of  
30 indebtedness secured by the deed of trust exceed the  
31 maximum amount stated therein, except as specifically  
32 provided for in subsection (a) of this section; and

33 (3) The original deed of trust must be executed and  
34 recorded after the effective date of this section.

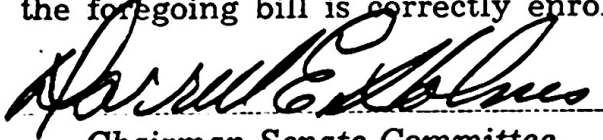
35 (c) Except as otherwise provided herein, the deed of  
36 trust to the extent of the principal amount of the loan  
37 secured thereby, interest thereon, taxes, insurance pre-  
38 miums and other obligations, including interest thereon,  
39 secured thereby, has priority over all other deeds of trust,  
40 liens and encumbrances of every nature, however created  
41 or arising, to the same extent and for the same amount  
42 as if all the amounts were advanced immediately after  
43 the date and time the deed of trust is recorded.

44 (d) After the recording of the credit line deed of trust,  
45 any mechanic's lien, abstract of judgment, notice of lis  
46 pendens, deed of trust or other lien or encumbrance

47 affecting the property encumbered by the deed of trust is  
48 duly recorded and otherwise perfected as required by  
49 law, any optional or nonobligatory advances secured by  
50 the deed of trust which are made by the secured party  
51 under the deed of trust after receipt by the secured  
52 party of written notice of the other lien at the address *Sec*  
53 provided for this purpose in the deed of trust, does not  
54 have priority over the lien of the mechanic's lien, judg-  
55 ment lien, notice of lis pendens, deed of trust or other  
56 lien or encumbrances. However, any obligatory advances  
57 which the secured party contracted to make by written  
58 agreement entered into with the obligor whose indebt-  
59 edness is secured by the deed of trust, prior to receipt  
60 of this written notice, and any taxes, insurance prem-  
61 iums and obligations which the secured party has agreed  
62 to pay, or which under the deed of trust or otherwise  
63 the secured party has the right to pay in connection  
64 with such deed of trust, shall continue to have the  
65 priority created under subsection (a) of this section  
66 over a mechanic's lien, judgment lien, notice of lis  
67 pendens, deed of trust or other lien or encumbrance. For  
68 the purposes of this section, an "obligatory advance"  
69 means any advance of principal which the secured party  
70 under the deed of trust is legally obligated to make in  
71 the absence of the occurrence of a specific event under the  
72 deed of trust or related loan agreement or note, by a  
73 specified date or time or upon application therefor by  
74 the grantor under the deed of trust or by another ob-  
75 ligor whose indebtedness is secured by the deed of trust.

76 (e) Notwithstanding any other provision of this code,  
77 the secured party under a credit line deed of trust subject  
78 to this section shall be obligated to release the deed of  
79 trust at such time as all indebtedness secured thereby has  
80 been paid in full and the secured party has been duly  
81 released from any further obligation to make future ad-  
82 vances under any note or agreement secured by the deed  
83 of trust. This release shall become effective upon the  
84 recording of the release and the secured party shall be  
85 released and discharged from any further obligation.

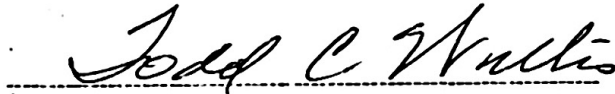
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


  
Chairman Senate Committee


  
Chairman House Committee

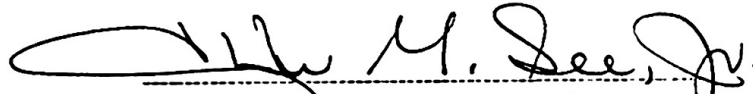
Originated in the Senate.

In 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 is approved this the 30  
day of March, 1984.

  
Governor

RECEIVED

8/1 APR 4 P12: 04

OFFICE  
SECV. OF STATE