WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1986

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ENROLLED

SENATE BILL NO. 251

(By: Senator Palambo)

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PASSED March 5, 1986

In Effect from Passage
AN ACT to amend and reenact section fourteen, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to liens; vendor’s and trust deed liens; future advances secured by credit line deed of trust; form; priority over other liens; release.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article one, 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 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 with the provisions of this article is clearly entitled at the beginning thereof either in capital letters or in language underscored, the words, “A CREDIT LINE DEED OF TRUST,” the deed of trust shall be, from the time it is duly recorded as required by law, security for all indebtedness secured thereby at the time of recording and for all future advances secured thereby in an aggregate principal amount outstanding at any time not to exceed
the maximum amount stated in the deed of trust, without regard to whether the future advances are contracted for at the time of recordation of the deed of trust or whether the secured party under the deed of trust re- advances principal sums repaid. The deed of trust shall also be security for interest on the principal sums and for taxes, insurance premiums and other obligations, including interest thereon, undertaken by the secured party in the deed of trust or in the related loan agreement, note or other evidences of indebtedness secured thereby. The interest, taxes, insurance premiums and other obligations when added to the total principal amount of the loans outstanding at any time may increase the amount secured by the deed of trust above the stated maximum amount.

(b) A credit line deed of trust, in addition to other provisions of this code, shall conform with the following:

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

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

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

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

(d) Any mechanic's lien, abstract of judgment, notice of lis pendens, other deed of trust or other lien of encumbrance, which affects the property encumbered by the credit line deed of trust and which is duly recorded and perfected as required by law after the recording of the credit line deed of trust, shall have priority over any
optional or nonobligatory advances secured by the credit
line deed of trust and made by the secured party under
the credit line deed of trust after receipt by the secured
party, at the address provided for the purpose in the credit
line deed of trust, of written notice of such mechanic's
lien, judgment lien, notice of lis pendens, other deed
of trust or other lien or encumbrance. However, any
obligatory advances which the secured party contracted
to make by written agreement entered into with the
obligor whose indebtedness is secured by the deed of trust,
prior to receipt of this written notice, and any taxes, in-
surance premiums and obligations which the secured
party has agreed to pay, or which under the deed of trust
or otherwise the secured party has the right to pay in
connection with such deed of trust, shall continue to have
the priority created under subsection (a) of this section
over a mechanic's lien, judgment lien, notice of lis pen-
dens, deed of trust or other lien or encumbrance. For the
purposes of this section, an “obligatory advance” means
any advance of principal which the secured party under
the deed of trust is legally obligated to make in the
absence of the occurrence of a specific event under the
deed of trust or related loan agreement or note, by a
specified date or time or upon application therefor by the
grantor under the deed of trust or by another obligor
whose indebtedness is secured by the deed of trust.

(e) Notwithstanding any other provision of this code,
the secured party under a credit line deed of trust subject
to this section shall be obligated to release the deed of
trust at such time as all indebtedness secured thereby has
been paid in full and the secured party has been duly
released from any further obligation to make future ad-
varies under any note or agreement secured by the deed
of trust. This release shall become effective upon the
recording of the release and the secured party shall be
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 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 ________ day of ________, 1986.

Governor