

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986



ENROLLED

SENATE BILL NO. 251

(By Senator Palumbo)



PASSED March 5, 1986

In Effect from Passage



ENROLLED
Senate Bill No. 251
(BY SENATOR PALUMBO)

[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
- 2 with the provisions of this article is clearly entitled at the
- 3 beginning thereof either in capital letters or in language
- 4 underscored, the words, "A CREDIT LINE DEED OF
- 5 TRUST," the deed of trust shall be, from the time it is
- 6 duly recorded as required by law, security for all indebt-
- 7 edness secured thereby at the time of recording and for
- 8 all future advances secured thereby in an aggregate
- 9 principal amount outstanding at any time not to exceed

10 the maximum amount stated in the deed of trust, without
11 regard to whether the future advances are contracted
12 for at the time of recordation of the deed of trust or
13 whether the secured party under the deed of trust re-
14 advances 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 in-
20 terest, 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 following:

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

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

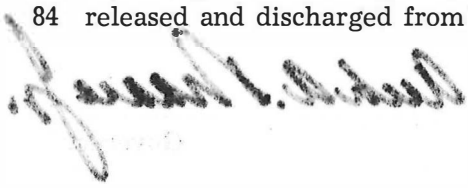
32 (3) The original deed of trust must be executed and
33 recorded after the effective date of this section.

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

43 (d) Any mechanic's lien, abstract of judgment, notice
44 of lis pendens, other deed of trust or other lien of encum-
45 brance, which affects the property encumbered by the
46 credit line deed of trust and which is duly recorded and
47 perfected as required by law after the recording of the
48 credit line deed of trust, shall have priority over any

49 optional or nonobligatory advances secured by the credit
50 line deed of trust and made by the secured party under
51 the credit line deed of trust after receipt by the secured
52 party, at the address provided for the purpose in the credit
53 line deed of trust, of written notice of such mechanic's
54 lien, judgment lien, notice of lis pendens, other deed
55 of trust or other lien or encumbrance. However, any
56 obligatory advances which the secured party contracted
57 to make by written agreement entered into with the
58 obligor whose indebtedness is secured by the deed of trust,
59 prior to receipt of this written notice, and any taxes, in-
60 surance premiums and obligations which the secured
61 party has agreed to pay, or which under the deed of trust
62 or otherwise the secured party has the right to pay in
63 connection with such deed of trust, shall continue to have
64 the priority created under subsection (a) of this section
65 over a mechanic's lien, judgment lien, notice of lis pen-
66 dens, deed of trust or other lien or encumbrance. For the
67 purposes of this section, an "obligatory advance" means
68 any advance of principal which the secured party under
69 the deed of trust is legally obligated to make in the
70 absence of the occurrence of a specific event under the
71 deed of trust or related loan agreement or note, by a
72 specified date or time or upon application therefor by the
73 grantor under the deed of trust or by another obligor
74 whose indebtedness is secured by the deed of trust.

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



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

[Signature]
Chairman Senate Committee

Floyd Fuller
Chairman House Committee

Originated in the Senate.

In effect from passage.

Judd C. Wicks
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Sam Tomberlin
President of the Senate

Joseph P. Allright
Speaker House of Delegates

The within *approved* this the *26th*
day of *March*, 1986.

Arch A. Moore Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/8/86

Time 1:07 p.m.

RECEIVED

1986 MAR 26 AM 11:04

OFFICE OF THE
SECRETARY OF STATE

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/26/86