WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

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ENROLLED
Com. Sub. for

HOUSE BILL No. 2892

(By Delegate Southern)

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Passed March 13, 1987

In Effect Ninety Days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2892
(By Delegate Southern)

[Passed March 13, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact sections three hundred seven and four hundred seven, article nine, chapter forty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the uniform commercial code; secured transactions; perfecting security interest in farm products; establishing a central filing system for perfecting security interests against farm product buyers; and procedures relating thereto.

Be it enacted by the Legislature of West Virginia:

That sections three hundred seven and four hundred seven, article nine, chapter forty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 9. SECURED TRANSACTIONS; SALES OF ACCOUNTS AND CHATTEL PAPERS.

§46-9-307. Protection of buyers of goods; protection of buyers of farm products; contents of notice of security interest.

1 (1) A buyer in ordinary course of business as defined in subsection nine, section two hundred one, article one of this chapter, other than a person buying farm products;
products from a person engaged in farming operations, takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer know of its existence.

(2) In the case of consumer goods, a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes unless prior to the purchase the secured party has filed a financing statement covering such goods.

(3) A buyer, other than a buyer in ordinary course of business, takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than forty-five days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the forty-five day period.

(4) A secured party may enforce a security interest in farm products against a buyer in the ordinary course of business who purchases farm products from a person engaged in farming operations or against a commission merchant or selling agent who in the ordinary course of business sells farm products for a person engaged in farming operations, only where the secured party has signed and filed in the office of the secretary of state a form containing the following information:

(a) The name and address of the borrower;

(b) The borrower's signature;

(c) The name and address of the secured party;

(d) The social security number of the borrower, or in the case of a borrower doing business other than as an individual, the borrower's internal revenue service taxpayer identification number;

(e) A description of the farm products subject to the security interest including the amount of such products where applicable; and

(f) A reasonable description of the real estate, includ-
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...ing county, where or upon which the farm products are located.

(5) The form described in subsection four of this section must be amended in writing within three months, and similarly signed and filed, to reflect material changes. The effectiveness and continuation of the form is to be treated as if it were a financing statement.

(6) The provisions of section two hundred one, article one of this chapter notwithstanding, as used in this subsection and in subsections four and five of this section or in subsections three, four, five and six of section four hundred seven of this article, unless the context in which used requires otherwise, the term:

(a) "Buyer in the ordinary course of business" means a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products;

(b) "Commission merchant" shall mean any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person;

(c) "Person" means any individual, partnership, corporation, trust or any other business entity; and

(d) "Selling agent" means any person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farming operations.

§46-9-407. Information from filing officer; central indexing system for recording security interest in farm products; contents.

(1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such...
person.

(2) Upon request of any person, the secretary of state shall issue his certificate showing whether there is on file in his office on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be two dollars if the request for the certificate is in the standard form prescribed by the secretary of state and otherwise shall be five dollars plus fifty cents for each financing statement and for each statement of assignment reported therein. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of fifty cents per page.

(3) The secretary of state shall develop and implement a central indexing system containing the information filed with his office pursuant to subsection four, section three hundred seven of this article. Under this system, the secretary shall record the date and time of filing and compile the information into a master list organized according to farm products. The list shall be organized within each farm product category in alphabetical order according to the last name of the borrower, or in the case of borrowers doing business other than as individuals, the first word in the name of such borrower in numerical order according to the social security or taxpayer identification number of the borrower, geographically by county and by crop year. The master list shall also contain the name and address of the secured party, the name and address of the borrower, a description of the farm products, including amount where applicable, subject to the security interest, and a reasonable description of the real estate, including the county where or upon which the farm products are located.

(4) The secretary of state shall maintain a list of all buyers of farm products, commission merchants and selling agents who register with the secretary of state.
indicating an interest in receiving the lists described in subsection five of this section.

(5) The secretary of state shall distribute on a regular basis as determined by the secretary of state to each buyer, commission merchant and selling agent registered under subsection four, a copy in written or printed form of those portions of the master list which the buyer, commission merchant or selling agent has indicated an interest in receiving.

(6) Upon the request of any person, the secretary of state shall provide within twenty-four hours an oral confirmation of the filing of the form described in subsection four, section three hundred seven of this article, followed by a written confirmation.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Bruce C. Williams  
Chairman Senate Committee

Lyle Lathe  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Jed C. Stark  
Clerk of the Senate

Donald R. Kepp  
Clerk of the House of Delegates

K. Tewarson  
President of the Senate

C. R. Crabbs  
Speaker of the House of Delegates

The within is approved this the 31st day of March, 1987.

Andrew P. P. P.  
Governor