WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

ENROLLED

Committee Substitute
SENATE BILL NO. 41

(By Senator Tucker, Mr. President)

PASSED April 6, 1989
In Effect 90 days from Passage
AN ACT to amend and reenact sections four hundred one and four hundred seven, article nine, chapter forty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section two, article one, chapter fifty-nine of said code, all relating to uniform commercial code; secured transactions; redefining the place of filing to perfect security interests; raising filing fees; establishment of an account to maintain the uniform commercial code program; and creation of rule and fee setting authority of the secretary of state.

Be it enacted by the Legislature of West Virginia:

That sections four hundred one 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; and that section two, article one, chapter fifty-nine of said code be amended and reenacted, all to read as follows:
CHAPTER 46. UNIFORM COMMERCIAL CODE.

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

§46-9-401. Place of filing; erroneous filing; removal of collateral.

1 (1) The proper place to file in order to perfect a security interest is as follows:

3 (a) When the collateral is consumer goods, then in the office of the secretary of state and in the office of the clerk of the county commission of the debtor's residence or if the debtor is not a resident of this state then in the office of the clerk of the county commission where the goods are kept;

9 (b) When the collateral is timber to be cut or is minerals or the like (including oil and gas) or accounts subject to the provisions of subsection five, section one hundred three of this article, or when the financing statement is filed as a fixture filing subject to the provisions of section three hundred thirteen of this article, and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded;

18 (c) In all other cases, in the office of the secretary of state.

20 (2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

28 (3) A filing which is made in the proper county continues effective after a change to another county of the debtor's residence or place of business or the location of the collateral, whichever controlled the original filing. A change in the use of the collateral does not impair the effectiveness of the original filing.
(4) The rules stated in section one hundred three of this article determine whether filing is necessary in this state.

(5) Notwithstanding the preceding subsections, and subject to the provisions of subsection three, section three hundred two of this article, the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. This filing constitutes a fixture filing as to the collateral described therein which is or is to become fixtures.

(6) For the purposes of this section, the residence of an organization is its place of business if it has one or its chief executive office if it has more than one place of business.

§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 three 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 imple-
ment a central indexing system containing the infor-
mation 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 identifica-
tion 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.
(7) All fees and moneys collected by the secretary of state pursuant to the provisions of this article shall be deposited by the secretary of state in a separate fund in the state treasury and shall be expended solely for the purposes of this article, unless otherwise provided by appropriation or other action of the Legislature.

(8) The secretary of state shall, pursuant to the provisions of article three, chapter twenty-nine-a of this code, promulgate rules and set fees, not otherwise provided for by general law, to carry out the duties associated with this article.

CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS; LEGAL ADVERTISEMENTS.

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-2. Fees to be charged by secretary of state.

1 Except as may be otherwise provided in article one, chapter thirty-one of this code, the secretary of state shall charge for services rendered in his office the following fees to be paid by the person to whom the service is rendered at the time it is done:

2 For each certificate of incorporation or copy thereof, including restatements of any such certificates issued on new agreements, and/or consolidations or all certificates of merger or consolidation or certificates authorizing a foreign corporation to do business within this state ........................................ $10.00

3 For each certified copy of certificate of incorporation, not to exceed ten pages .................. 10.00

4 If such copy contains in excess of ten pages, for each additional page .............................. .20

5 For filing and recording a trademark ............... 5.00

6 For each certificate of change of name, of increase or decrease of authorized capital stock, of change or principal office, or of amendment to certificate of incorporation ....... 5.00
For recording a power of attorney and certificate thereof ..................................... 3.00

For any other certificate, whether required by law or made at the request of any person ....... 5.00

The foregoing fees shall include the tax on the great seal or the less seal impressed on any such document, as well as the filing, recording and indexing of the same.

For endorsing and filing reports of corporations, and all other papers, which shall include the indexing of the same, for each report or paper filed ......................... 1.00

For any search, not less than ....................... 1.00

For searches of more than one hour, for each hour or fraction thereof consumed in making such search ........................................ 5.00

The cost of the search shall be in addition to the cost of any certificate issued pursuant thereto or based thereon. For entering statement of satisfaction of conditional sale contract ........................................ 1.00

For filing each financing, continuation or termination statement or other statement or writing permitted to be filed under chapter forty-six of the code ........................................... 3.00

For recording any paper for which no specific fee is prescribed ................................ 1.00

Or at the rate, for each one hundred words recorded, of ...................................... .20

For issuing commission to a notary public, or to a commissioner of deeds, which shall include the tax on the state seal thereon and other charges ........................................... 5.00

For a testimonial ........................................ 1.50

For a copy of any paper, if one sheet ..................... 1.00

For each sheet of copy after the first ................... .75
For issuing a commission to a commissioner in any other state $5.00.

For any other work or service not herein enumerated, such fee as may be elsewhere prescribed.
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 hereby approved this the day of April 1919.

Governor