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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

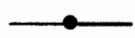
REGULAR SESSION, 1989



## ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 41

(By Senator Tucker, Mr. President)



PASSED April 6, 1989

In Effect 90 days from Passage

**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 41**

(SENATOR TUCKER, MR. PRESIDENT, *original sponsor*)

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[Passed April 6, 1989; in effect ninety days from passage.]

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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  
2 security interest is as follows:

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

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

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

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

28 (3) A filing which is made in the proper county  
29 continues effective after a change to another county of  
30 the debtor's residence or place of business or the  
31 location of the collateral, whichever controlled the  
32 original filing. A change in the use of the collateral  
33 does not impair the effectiveness of the original filing.

34 (4) The rules stated in section one hundred three of  
35 this article determine whether filing is necessary in  
36 this state.

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

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

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

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

8 (2) Upon request of any person, the secretary of state  
9 shall issue his certificate showing whether there is on  
10 file in his office on the date and hour stated therein,  
11 any presently effective financing statement naming a  
12 particular debtor and any statement of assignment  
13 thereof and if there is, giving the date and hour of  
14 filing of each such statement and the names and  
15 addresses of each secured party therein. The uniform  
16 fee for such a certificate shall be three dollars if the  
17 request for the certificate is in the standard form  
18 prescribed by the secretary of state and otherwise  
19 shall be five dollars plus fifty cents for each financing  
20 statement and for each statement of assignment  
21 reported therein. Upon request the filing officer shall  
22 furnish a copy of any filed financing statement or

23 statement of assignment for a uniform fee of fifty  
24 cents per page.

25 (3) The secretary of state shall develop and imple-  
26 ment a central indexing system containing the infor-  
27 mation filed with his office pursuant to subsection  
28 four, section three hundred seven of this article.  
29 Under this system, the secretary shall record the date  
30 and time of filing and compile the information into a  
31 master list organized according to farm products. The  
32 list shall be organized within each farm product  
33 category in alphabetical order according to the last  
34 name of the borrower, or in the case of borrowers  
35 doing business other than as individuals, the first word  
36 in the name of such borrower in numerical order  
37 according to the social security or taxpayer identifica-  
38 tion number of the borrower, geographically by  
39 county and by crop year. The master list shall also  
40 contain the name and address of the secured party, the  
41 name and address of the borrower, a description of the  
42 farm products, including amount where applicable,  
43 subject to the security interest, and a reasonable  
44 description of the real estate, including the county  
45 where or upon which the farm products are located.

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

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

58 (6) Upon the request of any person, the secretary of  
59 state shall provide within twenty-four hours an oral  
60 confirmation of the filing of the form described in  
61 subsection four, section three hundred seven of this  
62 article, followed by a written confirmation.

63 (7) All fees and moneys collected by the secretary of  
64 state pursuant to the provisions of this article shall be  
65 deposited by the secretary of state in a separate fund  
66 in the state treasury and shall be expended solely for  
67 the purposes of this article, unless otherwise provided  
68 by appropriation or other action of the Legislature.

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

**CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWS-  
PAPERS; 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,  
2 chapter thirty-one of this code, the secretary of state  
3 shall charge for services rendered in his office the  
4 following fees to be paid by the person to whom the  
5 service is rendered at the time it is done:

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

13 For each certified copy of certificate of incorpo-  
14 ration, not to exceed ten pages ..... 10.00

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

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

18 For each certificate of change of name, of  
19 increase or decrease of authorized capital  
20 stock, of change or principal office, or of  
21 amendment to certificate of incorporation ..... 5.00

22	For recording a power of attorney and certifi-	
23	cate thereof .....	3.00
24	For any other certificate, whether required by	
25	law or made at the request of any person .....	5.00
26	The foregoing fees shall include the tax on the	
27	great seal or the less seal impressed on any	
28	such document, as well as the filing, record-	
29	ing and indexing of the same.	
30	For endorsing and filing reports of corpora-	
31	tions, and all other papers, which shall	
32	include the indexing of the same, for each	
33	report or paper filed .....	1.00
34	For any search, not less than .....	1.00
35	For searches of more than one hour, for each	
36	hour or fraction thereof consumed in making	
37	such search .....	5.00
38	The cost of the search shall be in addition to	
39	the cost of any certificate issued pursuant	
40	thereto or based thereon. For entering state-	
41	ment of satisfaction of conditional sale con-	
42	tract .....	1.00
43	For filing each financing, continuation or ter-	
44	mination statement or other statement or	
45	writing permitted to be filed under chapter	
46	forty-six of the code .....	3.00
47	For recording any paper for which no specific	
48	fee is prescribed .....	1.00
49	Or at the rate, for each one hundred words	
50	recorded, of .....	.20
51	For issuing commission to a notary public, or to	
52	a commissioner of deeds, which shall include	
53	the tax on the state seal thereon and other	
54	charges .....	5.00
55	For a testimonial .....	1.50
56	For a copy of any paper, if one sheet .....	1.00
57	For each sheet of copy after the first .....	.75

58 For issuing a commission to a commissioner in  
59 any other state ..... 5.00  
60 For any other work or service not herein  
61 enumerated, such fee as may be elsewhere  
62 prescribed.



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

*Fredrick L. Rosen*  
.....  
Chairman Senate Committee

*J. L. Sattis*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Isaac C. Mills*  
.....  
Clerk of the Senate

*Donald T. Kopp*  
.....  
Clerk of the House of Delegates

*Sam R. Tucker*  
.....  
President of the Senate

*W. H. C. C.*  
.....  
Speaker House of Delegates

The within *is* approved this the *24<sup>th</sup>*  
day of *April* 19*39*  
*Yaston Caperton*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/19/89

Time 10:40