WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

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ENROLLED

HOUSE BILL No. H133

(By Delegates S. Williams, D. White, Phillips, Rutledge and Harrison)

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Passed March 10, 1994

In Effect 90 Days From Passage
ENROLLED

H. B. 4133

(By Delegates S. Williams, H. White, Phillips, Rutledge and Harrison)

[Passed March 10, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact sections thirteen and eighteen, article six, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to distress that may be levied on the goods of a lessee.

Be it enacted by the Legislature of West Virginia:

That sections thirteen and eighteen, article six, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follow:

ARTICLE 6. LANDLORD AND TENANT.

§37-6-13. Property subject to distress.

1 The distress may be levied on any goods of the lessee, or his assignee or undertenant, found on the premises, or which may have been removed therefrom not more than thirty days. If the goods of such lessee, assignee or undertenant, when carried on the premises, are subject to a lien which is valid against his creditors, his interest only in such goods shall be liable to such distress. If any lien be created thereon while they are upon the leased premises, they shall be liable to distress, but for not more than one year's rent, whether it shall have accrued before or after the creation of the lien: Provided, That if the goods are subject to a perfected purchase money security interest, as defined in section one hundred
seven, article nine, chapter forty-six of this code, and
that such purchase money security interest is in effect
under the terms set forth in section four hundred three,
article nine of chapter forty-six of this code, then the
goods are liable to distress only to the extent of the
unencumbered interest of the lessee, assignee or
undertenant. No goods shall be liable to distress other
than such as are declared to be so liable in this section.

§37-6-18. Removal of goods by third party having lien.

If, after the commencement of any tenancy, a lien be
obtained or created by trust deed, mortgage, or other-
wise, upon the interest or property in goods on premises
leased or rented, of any person liable for the rent, the
party having such lien may remove such goods from the
premises on the following terms, and not otherwise, that
is to say: On the terms of paying to the person entitled
to the rent, so much as is in arrear, and securing to him
so much as is to become due; what is so paid or secured
not being more altogether than a year's rent in any case:
Provided, That if the party removing such goods has
perfected a purchase money security interest in the
goods, as defined in section one hundred seven, article
nine, chapter forty-six of this code and that such
purchase money security interest is in effect under the
terms set forth in section four hundred three, article
nine, chapter forty-six of this code, then the goods are
liable to distress only to the extent of the unencumbered
interest of the lessee, assignee or undertenant. If the
goods be taken under legal process, the officer executing
it shall, out of the proceeds of the goods, make such
payment of what is in arrear; and, as to what is to
become due, he shall sell a sufficient portion of the goods
on a credit till then, taking from the purchaser bond,
with good security, payable to the person so entitled, and
delivering such bond to him. If the goods be not taken
under legal process, such payment and security shall be
made and given before their removal. Neither this nor
any other section of this article shall affect any lien for
taxes or levies.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled:

Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Donald L. Yeap
Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 31st day of March, 1994.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/25/94
Time 10:03 AM