

HB# 4133

RECEIVED
1994 MAR 29 PM 4:47
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

HOUSE BILL No. 4133

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



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,
2 or his assignee or undertenant, found on the premises,
3 or which may have been removed therefrom not more
4 than thirty days. If the goods of such lessee, assignee or
5 undertenant, when carried on the premises, are subject
6 to a lien which is valid against his creditors, his interest
7 only in such goods shall be liable to such distress. If any
8 lien be created thereon while they are upon the leased
9 premises, they shall be liable to distress, but for not
10 more than one year's rent, whether it shall have accrued
11 before or after the creation of the lien: *Provided*, That
12 if the goods are subject to a perfected purchase money
13 security interest, as defined in section one hundred

14 seven, article nine, chapter forty-six of this code, and
15 that such purchase money security interest is in effect
16 under the terms set forth in section four hundred three,
17 article nine of chapter forty-six of this code, then the
18 goods are liable to distress only to the extent of the
19 unencumbered interest of the lessee, assignee or
20 undertenant. No goods shall be liable to distress other
21 than such as are declared to be so liable in this section.

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

1 If, after the commencement of any tenancy, a lien be
2 obtained or created by trust deed, mortgage, or other-
3 wise, upon the interest or property in goods on premises
4 leased or rented, of any person liable for the rent, the
5 party having such lien may remove such goods from the
6 premises on the following terms, and not otherwise, that
7 is to say: On the terms of paying to the person entitled
8 to the rent, so much as is in arrear, and securing to him
9 so much as is to become due; what is so paid or secured
10 not being more altogether than a year's rent in any case:
11 *Provided*, That if the party removing such goods has
12 perfected a purchase money security interest in the
13 goods, as defined in section one hundred seven, article
14 nine, chapter forty-six of this code and that such
15 purchase money security interest is in effect under the
16 terms set forth in section four hundred three, article
17 nine, chapter forty-six of this code, then the goods are
18 liable to distress only to the extent of the unencumbered
19 interest of the lessee, assignee or undertenant. If the
20 goods be taken under legal process, the officer executing
21 it shall, out of the proceeds of the goods, make such
22 payment of what is in arrear; and, as to what is to
23 become due, he shall sell a sufficient portion of the goods
24 on a credit till then, taking from the purchaser bond,
25 with good security, payable to the person so entitled, and
26 delivering such bond to him. If the goods be not taken
27 under legal process, such payment and security shall be
28 made and given before their removal. Neither this nor
29 any other section of this article shall affect any lien for
30 taxes or levies.

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

[Handwritten Signature]
.....
Chairman Senate Committee

Ernest E. Moore
.....
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Handwritten Signature]
.....
Clerk of the Senate

Donald S. Hopp
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker of the House of Delegates

The within is approved this the 29th
day of March 1994.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/25/94

Time 10:03am