

Senate Bill No. 572

(By Senators Tucker, Fitzsimmons and Edgell)

[Introduced February 13, 2014; referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.]

A BILL to amend and reenact §46-9-515 of the Code of West Virginia, 1931, as amended, relating to financing statements covering as-extracted collateral or timber to be cut.

Be it enacted by the Legislature of West Virginia:

That §46-9-515 of the Code of West Virginia, 1931, be amended and reenacted to read as follows:

**ARTICLE 9. SECURED TRANSACTIONS; SALES OF
ACCOUNTS AND CHATTEL PAPER.**

**§46-9-515. Duration and effectiveness of financing statement;
effect of lapsed financing statement.**

- 1 (a) *Five-year effectiveness.* – Except as otherwise
2 provided in subsections (b), (e), (f) and (g) of this section, a

3 filed financing statement is effective for a period of five years
4 after the date of filing.

5 (b) *Public-finance or manufactured-home transaction.* –

6 Except as otherwise provided in subsections (e), (f) and (g)
7 of this section, an initial financing statement filed in
8 connection with a public-finance transaction or
9 manufactured-home transaction is effective for a period of
10 forty years after the date of filing if it indicates that it is filed
11 in connection with a public-finance transaction or
12 manufactured-home transaction.

13 (c) *Lapse and continuation of financing statement.* – The

14 effectiveness of a filed financing statement lapses on the
15 expiration of the period of its effectiveness unless before the
16 lapse a continuation statement is filed pursuant to subsection
17 (d) of this section. Upon lapse, a financing statement ceases
18 to be effective and any security interest or agricultural lien
19 that was perfected by the financing statement becomes
20 unperfected, unless the security interest is perfected
21 otherwise. If the security interest or agricultural lien

22 becomes unperfected upon lapse, it is deemed never to have
23 been perfected as against a purchaser of the collateral for
24 value.

25 (d) *When continuation statement may be filed.* – A
26 continuation statement may be filed only within six months
27 before the expiration of the five-year period specified in
28 subsection (a) of this section or the thirty-year period
29 specified in subsection (b) of this section, whichever is
30 applicable.

31 (e) *Effect of filing continuation statement.* – Except as
32 otherwise provided in section ~~9-510~~ five hundred ten of this
33 article, upon timely filing of a continuation statement, the
34 effectiveness of the initial financing statement continues for
35 a period of five years commencing on the day on which the
36 financing statement would have become ineffective in the
37 absence of the filing. Upon the expiration of the five-year
38 period, the financing statement lapses in the same manner as
39 provided in subsection (c) of this section, unless, before the
40 lapse, another continuation statement is filed pursuant to

41 subsection (d) of this section. Succeeding continuation
42 statements may be filed in the same manner to continue the
43 effectiveness of the initial financing statement.

44 (f) *Transmitting utility financing statement.* – If a debtor
45 is a transmitting utility and a filed initial financing statement
46 so indicates, the financing statement is effective until a
47 termination statement is filed.

48 (g) *Record of mortgage as financing statement.* – A
49 record of a mortgage that is effective as a financing statement
50 filed as a fixture filing or as a financing statement covering
51 as-extracted collateral or timber to be cut under ~~section~~
52 ~~9-502(c)~~ subsection (c), section five hundred two of this
53 article remains effective as a financing statement filed as a
54 fixture filing or as a financing statement covering
55 as-extracted collateral or timber to be cut until the mortgage
56 is released or satisfied of record or its effectiveness otherwise
57 terminates as to the real property.

(NOTE: This bill provides that a record of a mortgage that is effective as a financing statement covering as-extracted collateral or timber to be cut remains effective as a financing statement covering as-extracted collateral or timber to be cut until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)