

1 **Senate Bill No. 572**

2 (By Senators Tucker, Fitzsimmons and Edgell)

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

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10 A BILL to amend and reenact §46-9-515 of the Code of West Virginia,
11 1931, as amended, relating to financing statements covering
12 as-extracted collateral or timber to be cut.

13 *Be it enacted by the Legislature of West Virginia:*

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

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

18 **§46-9-515. Duration and effectiveness of financing statement;**
19 **effect of lapsed financing statement.**

20 (a) *Five-year effectiveness.* -- Except as otherwise provided
21 in subsections (b), (e), (f) and (g) of this section, a filed
22 financing statement is effective for a period of five years after

1 the date of filing.

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

9 (c) *Lapse and continuation of financing statement.* -- The
10 effectiveness of a filed financing statement lapses on the
11 expiration of the period of its effectiveness unless before the
12 lapse a continuation statement is filed pursuant to subsection (d)
13 of this section. Upon lapse, a financing statement ceases to be
14 effective and any security interest or agricultural lien that was
15 perfected by the financing statement becomes unperfected, unless
16 the security interest is perfected otherwise. If the security
17 interest or agricultural lien becomes unperfected upon lapse, it is
18 deemed never to have been perfected as against a purchaser of the
19 collateral for value.

20 (d) *When continuation statement may be filed.* -- A
21 continuation statement may be filed only within six months before
22 the expiration of the five-year period specified in subsection (a)
23 of this section or the thirty-year period specified in subsection

1 (b) of this section, whichever is applicable.

2 (e) *Effect of filing continuation statement.* -- Except as
3 otherwise provided in section ~~9-510~~ five hundred ten of this
4 article, upon timely filing of a continuation statement, the
5 effectiveness of the initial financing statement continues for a
6 period of five years commencing on the day on which the financing
7 statement would have become ineffective in the absence of the
8 filing. Upon the expiration of the five-year period, the financing
9 statement lapses in the same manner as provided in subsection (c)
10 of this section, unless, before the lapse, another continuation
11 statement is filed pursuant to subsection (d) of this section.
12 Succeeding continuation statements may be filed in the same manner
13 to continue the effectiveness of the initial financing statement.

14 (f) *Transmitting utility financing statement.* -- If a debtor
15 is a transmitting utility and a filed initial financing statement
16 so indicates, the financing statement is effective until a
17 termination statement is filed.

18 (g) *Record of mortgage as financing statement.* -- A record of
19 a mortgage that is effective as a financing statement filed as a
20 fixture filing or as a financing statement covering as-extracted
21 collateral or timber to be cut under ~~section 9-502(c)~~ subsection
22 (c), section five hundred two of this article remains effective as
23 a financing statement filed as a fixture filing or as a financing

1 statement covering as-extracted collateral or timber to be cut
2 until the mortgage is released or satisfied of record or its
3 effectiveness otherwise 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.)