

No. 59

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

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ENROLLED
Committee Substitute for
SENATE BILL NO. 59

(By Mr. *Rogers & Mr. Tucker*)

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PASSED *April 2,* 1985
In Effect *ninety days from* Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 59

(MR. ROGERS AND MR. TUCKER, *original sponsors*)

(Originating in the Committee on the Judiciary.)

[Passed April 2, 1985; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to property sold under a deed of trust; notification of subordinate lienholders.

Be it enacted by the Legislature of West Virginia:

That section four, article one, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. VENDOR'S AND TRUST DEED LIENS.

§38-1-4. Notice of sale.

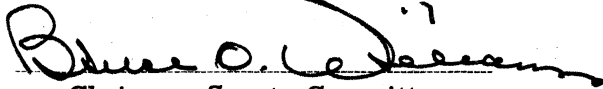
- 1 Unless property is to be sold under a deed of trust
- 2 executed and delivered prior to the first day of July, one
- 3 thousand nine hundred eighty, which contains a provision
- 4 waiving the requirement of published notice, or the prop-
- 5 erty to be sold is in the opinion of the trustee of less
- 6 value than two thousand dollars, the trustee shall pub-
- 7 lish a notice of a trustee's sale as a Class III legal adver-

8 tisement in compliance with the provisions of article
9 three, chapter fifty-nine of this code, and the publication
10 area for such publication shall be the county where the
11 property is located. If in the opinion of the trustee the
12 property is of less value than two thousand dollars, such
13 notice of sale shall be posted at least twenty days prior
14 thereto at the front door of the courthouse of
15 the county in which the property is to be sold, and at
16 three other public places in the county, one of which
17 shall be as near as practicable to the premises to be sold
18 if the sale is of real estate. In all cases, whether the
19 notice is published or not, a copy of such notice shall be
20 served on the grantor in such trust deed, or his agent or
21 personal representative, if he or they are within the
22 county, at least twenty days prior to the sale, unless
23 service of such notice be expressly waived by the grantor
24 in any such trust deed; and shall be served by certified
25 mail, at least twenty days prior to the sale, upon any
26 subordinate lienholder who has previously notified the
27 primary lienholder by certified mail of the existence of a
28 subordinate lien: *Provided*, That notice need not be given
29 to a subordinate lienholder for sales for which notice has
30 been posted or published prior to the effective date of
31 this section. Every notice of sale by a trustee under a
32 trust deed shall show the following particulars: (a) The
33 time and place of sale; (b) the names of the parties to
34 the deed under which it will be made; (c) the date of the
35 deed; (d) the office and book in which it is recorded; (e)
36 the quantity and description of the land or other prop-
37 erty or both conveyed thereby; and (f) the terms of
38 sale: *Provided, however*, That except as expressly pro-
39 vided in this section, no trust deed shall waive the re-
40 quirements of publication of notice as required by this
41 section. Notice to a subordinate lienholder shall be com-
42 plete when such notice is mailed in accordance with the
43 provisions of this section, directed to the address of the
44 subordinate lienholder as provided by such subordinate
45 lienholder in the notice of existence of a subordinate
46 lien.

47 An individual who purchases property at a trustee's
48 sale is under no duty to ascertain whether notice was

49 given to subordinate lienholders in accordance with the
50 provisions of this section, and such right, title and in-
51 terest as the purchaser may acquire shall not be affected
52 by defects in such notice or the service thereof, if the
53 purchaser is otherwise a bona fide purchaser for value.

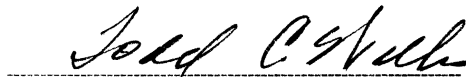
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

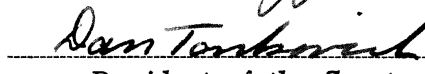

Chairman House Committee

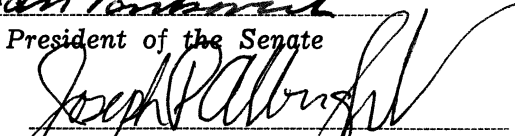
Originated in the Senate.




In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within  approved this the  10th
day of  April, 1985.


Governor

PRESENTED TO THE

GOVERNOR

Date

4/8/85

Time

3:19 p.m.

RECEIVED

1985 APR 12 PM 5:43

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE