

No: 2386

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



# ENROLLED

Com. Sub. for  
HOUSE BILL No. 2386

(By Delegate Hatcher)



Passed March 11, 1987

In Effect Ninety Days From Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2386**  
(By DELEGATE HATCHER)

---

[Passed March 11, 1987; 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 notice of sale under a deed of trust; notice to be given by Class II advertisement; removing provisions for service by posting; and providing for service on the grantor by certified mail, return receipt requested.

*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 provi-  
4 sion waiving the requirement of published notice, the  
5 trustee shall publish a notice of a trustee's sale as a Class  
6 II legal advertisement in compliance with the provisions  
7 of article three, chapter fifty-nine of this code, and the  
8 publication area for such publication shall be the county

9 where the property is located: *Provided*, That any notice  
10 of sale published since the first day of July, one thousand  
11 nine hundred eighty, and prior to the effective date of  
12 this section, shall be deemed to have met the  
13 requirements of the section if such were published as  
14 Class II legal advertisements, in compliance with the  
15 provisions of article three, chapter fifty-nine of this code,  
16 in that by the enactment of the acts of the Legislature,  
17 regular session, one thousand nine hundred eighty, the  
18 Legislature intended that all notice of sales pursuant to  
19 trust deeds were to have been published as Class II legal  
20 advertisements.

21 Except as expressly provided in this section, no trust  
22 deed shall waive the requirements of publication of  
23 notice required by this section.

24 In all cases, a copy of such notice shall be served on  
25 the grantor in such trust deed, or his agent or personal  
26 representative, by certified mail, return receipt re-  
27 quested, directed to the address shown by the grantors  
28 on the deed of trust or such other address given to the  
29 beneficiary of said trust deed or said beneficiary's agent  
30 or assignee in writing by the said grantor subsequent  
31 to the execution and delivery of the trust deed and notice  
32 shall be deemed complete when such notice is mailed to  
33 the aforesaid address, notwithstanding the fact that  
34 such mail may be returned as refused or undeliverable  
35 and shall be served by certified mail, at least twenty  
36 days prior to the sale, upon any subordinate lienholder  
37 who has previously notified the primary lienholder by  
38 certified mail of the existence of a subordinate lien.  
39 Every trust deed shall state the address to which such  
40 notice shall be mailed.

41 Every notice of sale by a trustee under a trust deed  
42 shall show the following particulars: (a) The time and  
43 place of sale; (b) the names of the parties to the deed  
44 under which it will be made; (c) the date of the deed;  
45 (d) the office and book in which it is recorded; (e) the  
46 quantity and description of the land or other property  
47 or both conveyed thereby; and (f) the terms of sale.

48 Notice to a subordinate lienholder shall be complete

49 when such notice is mailed in accordance with the  
50 provisions of this section, directed to the address of the  
51 subordinate lienholder as provided by such subordinate  
52 lienholder in the notice of existence of a subordinate  
53 lien.

54 The provisions of this section relating to the methods  
55 of serving notice are not exclusive. In addition to, but  
56 not in lieu of, any service of notice required by the  
57 provisions of this section, service of such notice may be  
58 also made by any other method authorized for the  
59 service of original process in the circuit courts of this  
60 state by statute or by the rules of civil procedure for  
61 trial courts of record.

62 An individual who purchases property at a trustee's  
63 sale is under no duty to ascertain whether notice was  
64 given to subordinate lienholders in accordance with the  
65 provisions of this section, and such right, title and  
66 interest as the purchaser may acquire shall not be  
67 affected by defects in such notice or the service thereof,  
68 if the purchaser is otherwise a bona fide purchaser for  
69 value.

*Handwritten signatures and text, including "J. J. [unclear]" and "J. J. [unclear]"*

Enr. Com. Sub. for H. B. 2386] 4

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

  
Chairman Senate Committee

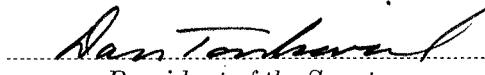
  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within  this the   
day of , 1987.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/87

Time 9:43 A.M.

RECEIVED

107 MAR 28 AM 10 21

OFFICE OF THE  
SECRETARY OF THE ARMY