

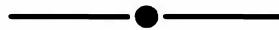
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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2009



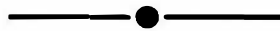
ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 3082

(By Delegates Moore, Webster, Shook, Caputo, Barker, Fleishauer,
Fragale, Miley, Marshall and Perry)



Passed April 8, 2009

In Effect Ninety Days from Passage

HB 3082

ENROLLED **FILED**
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COMMITTEE SUBSTITUTE

FOR OFFICE WEST VIRGINIA
SECRETARY OF STATE

H. B. 3082

(BY DELEGATES MOORE, WEBSTER, SHOOK, CAPUTO,
BARKER, FLEISCHAUER, FRAGALE, MILEY,
MARSHALL AND PERRY)

[Passed April 8, 2009; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31A-2-4c; to amend said code by adding thereto a new section, designated §38-1-8a; to amend said code by adding thereto a new section, designated §44-13-4a; and to amend and reenact §59-1-10 of said code, all relating to the gathering and reporting of foreclosure data and statistics; providing for the gathering and reporting of information pertaining to sales of residential real estate pursuant to deeds of trust; providing for the compilation and filing of data by trustees with the report of sales filed with the county clerks; providing for the periodic forwarding of gathered information to the Commissioner of Banking; identifying the minimum information to be provided; providing for fees to be paid for receipt and processing of the filed information; providing for the reporting of foreclosure statistics by the Commissioner of Banking; authorizing the

Commissioner of Banking to establish appropriate forms and filing requirements and procedures by rule.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §31A-2-4c; that said code be amended by adding thereto a new section, designated §38-1-8a; that said code be amended by adding thereto a new section, designated §44-13-4a; and that §59-1-10 of said code be amended and reenacted, all to read as follows:

CHAPTER 31A. BANKS AND BANKING

ARTICLE 2. DIVISION OF BANKING

§31A-2-4c. County Clerk to file reports of trustees regarding sales of residential real property pursuant to deeds of trust and forward to the banking commissioner.

1 (a) In addition to the jurisdiction, powers, and duties set
2 out in section four of this article, the banking commissioner
3 is vested with the jurisdiction, powers and duties to receive
4 and compile the data into an electronic data base and make
5 available the raw data that is required to be reported by
6 trustees to county clerks pursuant to chapter thirty-eight,
7 article one, section eight-a of the Code of West Virginia. The
8 commissioner has the power to promulgate rules in
9 accordance with this section and the provisions of article
10 three, chapter twenty-nine-a of this code in order to carry out
11 the requirements of this section. The commissioner is
12 authorized to expend funds for this purpose.

CHAPTER 38. LIENS

ARTICLE 1. VENDOR'S AND TRUST DEED LIENS

§38-1-8a Reports by Trustee to County Clerk; additional information to be filed with report of sale.

1 (a) This section applies to deeds of trust if the property
2 conveyed therein includes real property that is occupied, or
3 is intended to be occupied as a residence by the grantor at
4 time the deed of trust is executed and delivered.

5 (b) Beginning July 1, 2009, when a report of the sale of
6 the property sold pursuant to a deed of trust is placed of
7 record by the trustee with the clerk of the county commission
8 as provided in section eight of this article, the trustee shall
9 include the following information on a disclosure form
10 submitted with and made a part of the report of sale:

11 (1) Name or names of the grantor of the deed of trust;

12 (2) Street address, city, state and zip code of real property
13 subject to the trust;

14 (3) Original trustee name;

15 (4) Substitute trustee name, if any, and date of
16 appointment;

17 (5) The address, telephone number and electronic contact
18 information for the trustee making the sale;

19 (6) Date, time and place advertised for sale;

20 (7) Name of original secured lender;

21 (8) Current holder of deed of trust, and the current
22 holder's address;

- 23 (9) Original principal amount of the secured debt;
- 24 (10) Original interest rate;
- 25 (11) Whether the loan was adjustable and if so current
26 rate;
- 27 (12) Total secured indebtedness at time of sale;
- 28 (13) The number of months the loan is delinquent at time
29 of notice of sale; and
- 30 (14) The date, time and place of sale;
- 31 (15) The name of the purchaser;
- 32 (16) The appraised value at the time of loan, if available;
- 33 (17) The net amount applied to the secured loan;
- 34 (18) The date the report of sale is recorded and,
- 35 (19) Any other information the banking commissioner
36 may require by rule.
- 37 (c) The commissioner of banking shall publish a form
38 setting out the information required by subsection (b) and
39 instructions as to how this information is to be filed with the
40 report of sale.
- 41 (d) Notwithstanding any other provision of this code,
42 nothing in this section shall be deemed to create a
43 responsibility by the commissioner of banking to provide any
44 report other than the compiled raw data submitted from each
45 county clerk or to verify the accuracy of the data submitted.

46 (e) Failure to comply with this the provisions of this
47 section shall not affect the validity of the sale or the title to
48 the property sold by the trustee.

CHAPTER 44. ADMINISTRATION OF ESTATES AND TRUSTS.

ARTICLE 13. POWERS AND DUTIES OF CLERKS OF COUNTY COURTS IN COUNTIES HAVING SEPARATE TRIBUNAL FOR POLICE AND FISCAL PURPOSES.

§44-13-4a. Reporting of foreclosure statistics.

1 (a) Beginning with the third quarter of 2009, the clerk of
2 each county commission shall file quarterly with the Division
3 of Banking the disclosure forms of deed of trust foreclosure
4 sales that were recorded in that county for the preceding
5 calendar year quarter. The reports shall be filed within
6 fifteen days of the last day of September, December, March
7 and June of each year. The reports shall be filed in electronic
8 format, where possible.

9 (b) Notwithstanding any other provision of this code,
10 nothing in this section shall be deemed to create a
11 responsibility on the division of banking to provide any
12 report other than the compiled raw data submitted from each
13 county clerk or to verify the accuracy of the data submitted.

CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS; LEGAL ADVERTISEMENTS.

ARTICLE 1. FEES AND ALLOWANCES.

§ 59-1-10. Fees to be charged by clerk of county commission

1 For the purpose of this section, the word "page" is
2 defined as being a paper or electronic writing of not more
3 than legal size, 8 ½" x 14".

4 The clerk of the county commission shall charge and
5 collect the following fees:

6 (a) When a writing is admitted to record, for receiving
7 proof of acknowledgment thereof, entering an order in
8 connection therewith, endorsing clerk's certificate of
9 recordation thereon and indexing in a proper index, where the
10 writing is a:

11 (1) Deed of conveyance (with or without a plat), trust
12 deed, fixture filing or security agreement concerning real
13 estate lease, fifteen dollars.

14 (2) Trustee's report of sale for any property for which
15 additional information and filing requirements are required
16 by section eight-a, article 1, chapter thirty-eight of this code,
17 \$40, provided that \$20 dollars of each recording fee received
18 pursuant to this subdivision shall be deposited into the
19 county's general revenue fund and \$20 dollars of each of the
20 aforesaid recording fees shall be paid by the county clerk to
21 the State Treasurer quarterly and deposited in the banking
22 commissioner's fund to cover its expenses in aggregating,
23 collecting and publishing the data.

24 (3) Financing, continuation, termination or other
25 statement or writing permitted to be filed under chapter
26 forty-six of this code, ten dollars.

27 (4) Plat or map (with no deed of conveyance), \$10
28 dollars.

29 (5) Service discharge record, no charge.

30 (6) Any document or writing other than those referenced
31 in subdivisions (1), (2), (3), (4) and (5) of this subsection,
32 \$10.

33 (7) If any document or writing contains more than five
34 pages, for each additional page, one dollar.

35 For any of the documents admitted to record pursuant to
36 this subsection, if the clerk of the county commission has the
37 technology available to receive these documents in electronic
38 form or other media, the clerk shall set a reasonable fee to
39 record these writings not to exceed the cost for filing paper
40 documents.

41 (8) \$11 dollars of each recording fee received pursuant to
42 subdivision (1) of this subsection shall be retained by the
43 county clerk for the operation of that office and \$4 of each of
44 the aforesaid recording fees together with \$5 of the recording
45 fee collected pursuant to subdivision (5) of this section, shall
46 be paid by the county clerk into the State ~~Treasurer~~^{TREASURY} and
47 deposited in equal amounts for deposit into the Farmland
48 Protection Fund created in article twelve, chapter eight-a of
49 this code for the benefit of the West Virginia Agricultural
50 Land Protection Authority and into the Outdoor Heritage
51 Conservation Fund created in article two-g, chapter five-b of
52 this code: Provided, That the funds deposited pursuant to this
53 subdivision may only be used for costs, excluding personnel
54 costs, associated with purpose of land conservation, as
55 defined in subsection (f), section seven, article two-g, chapter
56 five-b of this code.

*de
S. B.
Home Club*

57 (b) For administering any oath other than oaths by
58 officers and employees of the state, political subdivisions of
59 the state or a public or quasi-public entity of the state or a
60 political subdivision of the state, taken in his or her official
61 capacity, \$5.

62 (c) For issuance of marriage license and other duties
63 pertaining to the marriage license (including preparation of
64 the application, administrating the oath, registering and
65 recording the license, mailing acknowledgment of minister's
66 return to one of the licensees and notification to a licensee
67 after sixty days of the nonreceipt of the minister's return),
68 \$35.

69 (1) \$1 of the marriage license fee received pursuant to
70 this subsection shall be paid by the county clerk into the State
71 Treasury as a state registration fee in the same manner that
72 license taxes are paid into the Treasury under article twelve,
73 chapter eleven of this code;

74 (2) \$15 of the marriage license fee received pursuant to
75 this subsection shall be paid by the county clerk into the State
76 Treasury for the Family Protection Shelter Support act in the
77 same manner that license taxes are paid into the Treasury
78 under article twelve, chapter eleven of this code;

79 (3) \$10 of the marriage license fee received pursuant to
80 this subsection shall be deposited in the Courthouse Facilities
81 Improvement Fund created by section six, article twenty-six,
82 chapter twenty-nine of this code.

83 (d)(1) For a copy of any writing or document, if it is not
84 otherwise provided for, one dollar fifty cents.

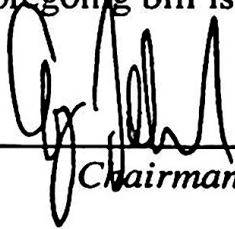
85 (2) If the copy of the writing or document contains more
86 than two pages, for each additional page, \$1.

87 (3) For annexing the seal of the commission or clerk to
88 any paper, one dollar.

89 (4) For a certified copy of a birth certificate, death
90 certificate or marriage license, \$5.

91 (e) For copies of any record in electronic form or a
92 medium other than paper, a reasonable fee set by the clerk of
93 the county commission not to exceed the costs associated
94 with document search and duplication.

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



Chairman Senate Committee



Chairman House Committee

Originating in the House.

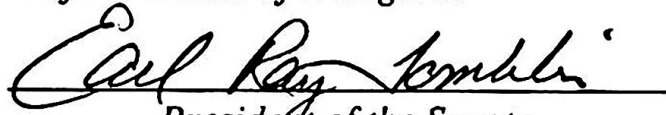
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 21st
day of April, 2009.



Governor

PRESENTED TO THE
GOVERNOR

APR 16 2009

Time 2:15pm