WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2012

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 3177

(By Delegates Lawrence, Marshall, Doyle, Pino, Hunt and Frazier)

Passed March 8, 2012

To Take Effect Ninety Days From Passage
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §38-1-16, relating to the status and rights of parties under a preexisting tenancy and lease when residential rental property is sold by a trustee pursuant to a deed of trust; declaring the rights of new owner to terminate tenancy with notice; providing a right of existing tenant to terminate tenancy; creating minimum notice requirements; setting requirements for providing notice; declaring that the terms and conditions of the preexisting lease survive the trustee sale; naming certain exceptions; and setting effective date.

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 §38-1-16, to read as follows:
ARTICLE 1. VENDOR'S AND TRUST DEED LIENS.

§38-1-16. Sale of real property pursuant to a deed of trust; preexisting tenancy.

(a) Notwithstanding the notice requirements of section five, article six, chapter thirty-seven of this code, following the conveyance of residential rental property to a purchaser by a trustee pursuant to a deed of trust, the tenancy of a tenant occupying the property under an unexpired written lease that is either not of record or was placed of record after the deed of trust under which the trustee sold the residential rental property was placed of record, may be terminated by giving ninety days written notice or by giving written notice not less than thirty days prior to the expiration of the lease, whichever is shorter. However, the tenancy of a tenant occupying the property under a month to month or other tenancy may be terminated by giving thirty days written notice. The terms and conditions of the lease of the property remain fully enforceable during the notice period. If the tenant fails to timely comply with the terms of the lease, the new owner, or the agent of the new owner, may proceed under article three-a of chapter fifty-five of this code, notwithstanding the provisions of this section. The tenancy of a factory built home may only be terminated as provided in section six, article fifteen, chapter thirty-seven of this code.

(b) The notice required by subsection (a) of this section shall, at a minimum, identify the residential real property occupied by the tenant, state the date of the trustee’s sale at which the residential real property was purchased, state the book and page number at which the trustee’s deed to the purchaser appears of record, state the date on which the tenancy will expire, and identify the purchaser, including information sufficient to contact the purchaser.
(c) Service of written notice upon the tenant, or anyone else holding the leased premises, or any part thereof, under the tenant is sufficient if made by regular mail addressed to the tenant or person holding under the tenant at the address of the property and by either personal delivery to the tenant or person holding under the tenant, by posting a copy of the notice on the front door of the rental real property or by certified mail addressed to the tenant or person holding under the tenant at the address of the property. When notice is given by the tenant, it may be served upon any person owning the premises, in whole or in part, or the agent of an owner.

(d) The provisions of this section take effect on the first day of January, two thousand thirteen.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.
To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 15th day of March, 2012.

Governor
PRESENTED TO THE GOVERNOR

MARCH 22, 2012

Time 10:25