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2012 APR -2 PM 1:02

WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2012

WEST VIRGINIA
SECRETARY OF STATE

—●—
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 360

(SENATORS TUCKER AND PLYMALE, ORIGINAL SPONSORS)

[PASSED MARCH 10, 2012; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 360

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 360

(SENATORS TUCKER AND PLYMALE, *original sponsors*)

[Passed March 10, 2012; in effect ninety days from passage.]

AN ACT to amend and reenact §11-10-13f of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §38-1-16, all relating to creating a procedure for deeming personal property abandoned following a transfer of real property by tax sale or foreclosure; requiring notice to the owner of personal property remaining on real property after the previous owner has vacated; creating a procedure for notice and removal of personal property within a thirty-day period; giving the purchaser of real property the authority to remove personal property after proper notice and waiting period; and prohibiting waiver of notice requirement prior to vacation of property.

Be it enacted by the Legislature of West Virginia:

That §11-10-13f of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §38-1-16, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.

§11-10-13f. Certificate of sale; deed to real property; notice and access to recover personal property; abandonment and removal of personal property.

1 (a) *Certificate of sale.* — In the case of property sold as
2 provided in section thirteen-c the Tax Commissioner shall
3 provide to the purchaser a certificate of sale upon payment
4 in full of the purchase price. In the case of real property,
5 such certificate shall set forth the real property purchased,
6 for whose taxes the same was sold, the name of the purchaser
7 and the price paid therefor.

8 (b) *Deed to real property.* — In the case of any real
9 property sold as provided in section thirteen-c and not
10 redeemed in the manner and within the time provided in
11 section thirteen-e, the Tax Commissioner shall execute, in
12 accordance with the laws of this state pertaining to sales of
13 real property under execution, to the purchaser of that real
14 property at the sale, upon his or her surrender of the certifi-
15 cate of sale, a deed to the real property so purchased by him
16 or her reciting the facts set forth in the certificate.

17 (c) *Real property purchased by the state.* — If real
18 property is declared purchased by the State of West Virginia
19 at a sale pursuant to section thirteen-c, the Tax Commis-
20 sioner shall, at the proper time, execute a deed therefor, and
21 without delay cause the deed to be duly recorded in the office
22 of the clerk of the county in which the real property is
23 located.

24 (d) *Removal of personal property.* — Following the
25 execution of a deed to real property pursuant to this section,
26 and after the previous owner has vacated the property either
27 voluntarily or following an eviction proceeding, any personal
28 property remaining on the real property may be deemed
29 abandoned if the purchaser of the real property provides
30 notice, pursuant to this subsection, and the personal property

31 remains on the real property at the conclusion of the notice
32 period. The notice shall state that the personal property will
33 be deemed abandoned if it is not removed from the real
34 property before the end of the thirtieth day following the
35 postmark date of the notice. If the locks are changed or the
36 previous owner is otherwise prevented from accessing the
37 personal property, the purchaser shall provide the previous
38 owner access to the personal property on reasonable terms.
39 The notice shall state a phone number, a mailing address,
40 and a physical address where the purchaser or an agent for
41 the purchaser who can provide access to the personal
42 property can be contacted; and shall further state that the
43 previous owner may contact the purchaser, and that pur-
44 chaser will provide the previous owner access to the personal
45 property on reasonable terms. The notice shall be sent to the
46 former owner(s) of the real property at their usual place of
47 business or their usual place of abode or last known address.
48 If the purchaser has received notice in writing or by elec-
49 tronic record that personal property belongs to another or
50 that another person or entity has a security interest in the
51 personal property, and if that person's mailing address is
52 also received by the purchaser in writing or by electronic
53 record, notice shall be sent to that person or entity as well.
54 The notice shall be made to all required persons, as stated in
55 this section, by both certified mail and regular mail. The
56 notice is complete when mailed, notwithstanding the fact
57 that the notice may be returned as unclaimed or refused. If
58 the notice period passes and the personal property remains
59 on the real property, then the personal property shall be
60 deemed abandoned and the purchaser of the real property
61 may dispose of the remaining personal property in his or her
62 discretion. The notice required by this section may not be
63 waived before the property is vacated.

CHAPTER 38. LIENS.

ARTICLE 1. VENDOR'S AND TRUST DEED LIENS.

§38-1-16. Personal property after foreclosure; notice and access to recover personal property; abandonment.

1 Following a foreclosure on residential real property
2 pursuant to this article, and after the previous owner has

3 vacated the property either voluntarily or following an
4 eviction proceeding, any personal property remaining on the
5 real property may be deemed abandoned if the purchaser of
6 the real property provides notice, pursuant to this section,
7 and the personal property remains on the real property at the
8 conclusion of the notice period. The notice shall state that
9 the personal property will be deemed abandoned if it is not
10 removed from the real property before the end of the thirti-
11 eth day following the postmark date of the notice. If the
12 locks are changed or the previous owner is otherwise
13 prevented from accessing the personal property, the pur-
14 chaser shall provide the previous owner access to the
15 personal property on reasonable terms. The notice shall state
16 a phone number, a mailing address, and a physical address
17 where the purchaser or an agent for the purchaser who can
18 provide access to the personal property can be contacted;
19 and shall further state that the previous owner may contact
20 the purchaser, and that purchaser will provide the previous
21 owner access to the personal property on reasonable terms.
22 The notice shall be sent to the former owner(s) of the real
23 property at all the address(es) to which notice of foreclosure
24 sale was sent as set forth in the trustee's report of sale, as
25 well as the last known address, if different. If the purchaser
26 has received notice in writing or by electronic record that
27 personal property belongs to another or that another person
28 or entity has a security interest in the personal property, and
29 if that person's or entity's mailing address is also received by
30 the purchaser in writing or by electronic record, notice shall
31 be sent to that person or entity as well. The notice shall be
32 made to all required persons, as stated in this section, by
33 both certified mail and regular mail. The notice is complete
34 when mailed, notwithstanding the fact that the notice may
35 be returned as unclaimed or refused. If the notice period
36 passes and the personal property remains on the real prop-
37 erty, then the personal property shall be deemed abandoned
38 and the purchaser of the real property may dispose of the
39 remaining personal property in the purchaser's discretion.
40 The notice required by this section may not be waived before
41 the property is vacated.

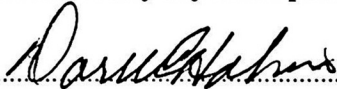
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


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Chairman Senate Committee

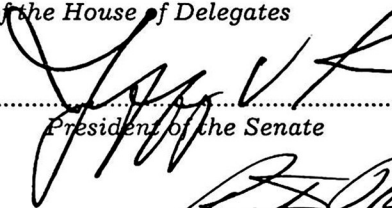

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker of the House of Delegates

The within is approved this the 2nd
Day of April, 2012.


.....
Governor

PRESENTED TO THE GOVERNOR

1981 2 9 2012

Time 4:20 pm