WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

ENROLLED

Senate Bill No. 418

(By Senators Nohe and Gaunch)

[Passed March 13, 2015; in effect ninety days from passage.]
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(BY SENATORS NOHE AND GAUNCH)

[Passed March 13, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §38-1-7 of the Code of West Virginia, 1931, as amended, relating to providing that a defendant in a civil action to recover a deficiency after a sale under a deed of trust may not assert as a defense that fair market value was not obtained for property sold at foreclosure sale.

Be it enacted by the Legislature of West Virginia:

That §38-1-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. VENDOR'S AND TRUST DEED LIENS.

§38-1-7. Application of proceeds; action to recover a deficiency.

(a) The trustee shall apply the proceeds of sale, first to the payment of expenses attending the execution of the trust, including a commission to the trustee of five percent on the first $300, and two percent on the residue of the proceeds, and shall apply the balance of such proceeds pro rata, or in the order of priority, if any, prescribed by the trust deed, to
the payment of the debts secured and the indemnity of the
sureties indemnified by the deed, and shall pay the surplus, if
any, to the grantor, his, her or its heirs, personal
representatives, successors or assigns, as their interests may
appear.

(b) A trust deed grantor, the obligor on the debt secured
by the deed of trust, including any maker, comaker,
guarantor, surety or other accommodation party, or other
defendant in a civil action seeking a deficiency judgment on
the debt secured by the deed of trust, may not assert as a
defense that the fair market value of secured real property
was not obtained at a trust deed foreclosure sale conducted in
accordance with this article.
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 of the House of Delegates

The within is approved this the 24th Day of March, 2015.

Governor