

SB418

FILED

2015 MAR 24 P 5: 08

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-SECOND LEGISLATURE**  
**REGULAR SESSION, 2015**

OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE



**ENROLLED**

**Senate Bill No. 418**

(BY SENATORS NOHE AND GAUNCH)

[PASSED MARCH 13, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**Senate Bill No. 418**

(BY SENATORS NOHE AND GAUNCH)

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

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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.**

- 1 (a) The trustee shall apply the proceeds of sale, first to the
- 2 payment of expenses attending the execution of the trust,
- 3 including a commission to the trustee of five percent on the
- 4 first \$300, and two percent on the residue of the proceeds,
- 5 and shall apply the balance of such proceeds pro rata, or in
- 6 the order of priority, if any, prescribed by the trust deed, to

7 the payment of the debts secured and the indemnity of the  
8 sureties indemnified by the deed, and shall pay the surplus, if  
9 any, to the grantor, his, her or its heirs, personal  
10 representatives, successors or assigns, as their interests may  
11 appear.

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

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

*Mark R. Meyer*  
.....  
Chairman Senate Committee

*John B. Mc*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Clark A. Barnes*  
.....  
Clerk of the Senate

*Stephan J. Harris*  
.....  
Clerk of the House of Delegates

*Will. P. H.*  
.....  
President of the Senate

*James G. ...*  
.....  
Speaker of the House of Delegates

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

*Earl Ray Tomblin*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 18 2015

Time 10:11 AM