

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3177**

4
5 (By Delegates Lawrence, Marshall, Doyle, Pino, Hunt and Frazier)

6 (Originating in the Committee on the Judiciary)

7
8 (February 10, 2012)

9
10 A BILL to the Code of West Virginia, 1931, as amended, by adding
11 thereto a new section, designated §38-1-16, relating to the
12 status and rights of parties under a preexisting tenancy and
13 lease when residential rental property is sold by a trustee
14 pursuant to a deed of trust; right of new owner to terminate
15 tenancy; right of existing tenant to terminate tenancy;
16 minimum notice requirements to terminate tenancy; service
17 requirements; survival of terms and conditions under
18 preexisting lease; exceptions; and effective date.

19 *Be it enacted by the Legislature of West Virginia:*

20 That the Code of West Virginia, 1931, as amended, be amended
21 by adding thereto a new section, designated §38-1-16, to read as
22 follows:

23 **ARTICLE 1. VENDOR'S AND TRUST DEED LIENS.**

24 **§38-1-16. Sale of real property pursuant to a deed of trust;**
25 **preexisting tenancy.**

26 (a) Notwithstanding the notice requirements of section five,
27 article six, chapter thirty-seven of this code, following the
28 conveyance of residential rental property to a purchaser by a

1 trustee pursuant to a deed of trust, the tenancy of a tenant
2 occupying the property under an unexpired written lease may be
3 terminated by giving ninety days written notice or by giving
4 written notice not less than thirty days prior to the expiration of
5 the lease, whichever is shorter. However, the tenancy of a tenant
6 occupying the property under a month to month or other tenancy may
7 be terminated by giving thirty days written notice. The terms and
8 conditions of the lease of the property remain fully enforceable
9 during the notice period. If the tenant fails to timely comply
10 with the terms of the lease, the new owner, or the agent of the new
11 owner, may proceed under article three-a of chapter fifty-five of
12 this code, notwithstanding the provisions of this section. The
13 tenancy of a factory built home may only be terminated as provided
14 in section six, article fifteen, chapter thirty-seven of this code.

15 (b) When notice is given to a tenant, it may be served upon
16 the tenant, or anyone else holding the leased premises, or any part
17 thereof, under the tenant. When notice is given by the tenant, it
18 may be served upon any person owning the premises, in whole or in
19 part, or the agent of an owner.

20 (c) The provisions of this section take effect on the first
21 day of January, two thousand thirteen.