

**Senate Bill No. 98**

(By Senator Sypolt)

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[Introduced January 11, 2012; referred to the Committee on the  
Judiciary; and then to the Committee on Finance.]

**FISCAL  
NOTE**

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A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new section, designated §11-15-9o, relating  
generally to consumers sales and service tax liability of  
homeowners' associations and their members; and exempting from  
tax dues, fees and assessments paid to homeowners'  
associations by members thereof which are to be used by the  
homeowners' association acting in its representative capacity  
for all members to purchase for the members, rather than sell  
to the members, such goods and services.

*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 §11-15-9o, to read as  
follows:

**ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

1 **§11-15-9o. Exemption for dues, fees and assessments paid to a**  
2 **homeowners' association by a member; and exemption**  
3 **for certain contracts to purchase third party goods**  
4 **or services by homeowner's association.**

5 (a) Membership dues, fees and assessments paid to a  
6 homeowners' association by a member thereof are exempt from the tax  
7 imposed by this article if the dues, fees and assessments are for  
8 the purpose of permitting or funding the homeowner's association to  
9 contract for purchase of third-party goods or services when acting  
10 in its representative capacity for all members, and only as a  
11 conduit for funds from the members, and not when the homeowner's  
12 association is selling taxable goods and services, without profit  
13 to its members.

14 (b) For purposes of this article:

15 (1) "Homeowners' association" means a homeowners' association  
16 as defined in Section 528 of the Internal Revenue Code of 1986, as  
17 amended. The term "homeowners' association" also includes any unit  
18 owners association organized under section one hundred one, article  
19 three, chapter thirty-six-b of this code.

20 (2) "Member" means a person having membership rights in a  
21 homeowners' association, in accordance with the provisions of its  
22 articles of incorporation, bylaws or other instruments creating its  
23 form and organization; and having bona fide rights and privileges

1 in the organization ordinarily conferred on members of the  
2 homeowners' association, such as the right to vote, the right to  
3 elect officers and directors and the right to hold office within  
4 the organization. The term "member" also includes a "unit owner"  
5 as that term is defined in section one hundred three, article one,  
6 chapter thirty-six-b of this code.

NOTE: The purpose of this bill is to exempt from consumers sales and service tax homeowners' association dues, fees and assessments paid by members thereof which are to be used by the homeowner's association acting in its representative capacity for all members to purchase for the members, rather than sell to the members, such goods and services.

This section is new; therefore, strike-throughs and underscoring have been omitted.