

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2012



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 3177**

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



Passed March 8, 2012

To Take Effect Ninety Days From Passage

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COMMITTEE SUBSTITUTE

FOR

## H. B. 3177

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(BY DELEGATES LAWRENCE, MARSHALL,  
DOYLE, PINO, HUNT AND FRAZIER)

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[Passed March 8, 2012; to take effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §38-1-16, relating to the status and rights of parties under a preexisting tenancy and lease when residential rental property is sold by a trustee pursuant to a deed of trust; declaring the rights of new owner to terminate tenancy with notice; providing a right of existing tenant to terminate tenancy; creating minimum notice requirements; setting requirements for providing notice; declaring that the terms and conditions of the preexisting lease survive the trustee sale; naming certain exceptions; and setting effective date.

*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 §38-1-16, to read as follows:

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

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

1 (a) Notwithstanding the notice requirements of section  
2 five, article six, chapter thirty-seven of this code, following  
3 the conveyance of residential rental property to a purchaser  
4 by a trustee pursuant to a deed of trust, the tenancy of a  
5 tenant occupying the property under an unexpired written  
6 lease that is either not of record or was placed of record after  
7 the deed of trust under which the trustee sold the residential  
8 rental property was placed of record, may be terminated by  
9 giving ninety days written notice or by giving written notice  
10 not less than thirty days prior to the expiration of the lease,  
11 whichever is shorter. However, the tenancy of a tenant  
12 occupying the property under a month to month or other  
13 tenancy may be terminated by giving thirty days written  
14 notice. The terms and conditions of the lease of the property  
15 remain fully enforceable during the notice period. If the  
16 tenant fails to timely comply with the terms of the lease, the  
17 new owner, or the agent of the new owner, may proceed  
18 under article three-a of chapter fifty-five of this code,  
19 notwithstanding the provisions of this section. The tenancy  
20 of a factory built home may only be terminated as provided  
21 in section six, article fifteen, chapter thirty-seven of this code.

22 (b) The notice required by subsection (a) of this section  
23 shall, at a minimum, identify the residential real property  
24 occupied by the tenant, state the date of the trustee's sale at  
25 which the residential real property was purchased, state the  
26 book and page number at which the trustee's deed to the  
27 purchaser appears of record, state the date on which the  
28 tenancy will expire, and identify the purchaser, including  
29 information sufficient to contact the purchaser.

30 (c) Service of written notice upon the tenant, or anyone  
31 else holding the leased premises, or any part thereof, under  
32 the tenant is sufficient if made by regular mail addressed to  
33 the tenant or person holding under the tenant at the address of  
34 the property and by either personal delivery to the tenant or  
35 person holding under the tenant, by posting a copy of the  
36 notice on the front door of the rental real property or by  
37 certified mail addressed to the tenant or person holding under  
38 the tenant at the address of the property. When notice is  
39 given by the tenant, it may be served upon any person  
40 owning the premises, in whole or in part, or the agent of an  
41 owner.

42 (d) The provisions of this section take effect on the first  
43 day of January, two thousand thirteen.



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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

To take effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2012.

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*Governor*