

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 360**

(SENATORS TUCKER AND PLYMALE, *original sponsors*)

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[Passed March 10, 2012; in effect ninety days from passage.]

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AN ACT to amend and reenact §11-10-13f of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §38-1-16, all relating to creating a procedure for deeming personal property abandoned following a transfer of real property by tax sale or foreclosure; requiring notice to the owner of personal property remaining on real property after the previous owner has vacated; creating a procedure for notice and removal of personal property within a thirty-day period; giving the purchaser of real property the authority to remove personal property after proper notice and waiting period; and prohibiting waiver of notice requirement prior to vacation of property.

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

That §11-10-13f of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §38-1-16, all to read as follows:

**CHAPTER 11. TAXATION.****ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.****§11-10-13f. Certificate of sale; deed to real property; notice and access to recover personal property; abandonment and removal of personal property.**

1       (a) *Certificate of sale.* — In the case of property sold as  
2 provided in section thirteen-c the Tax Commissioner shall  
3 provide to the purchaser a certificate of sale upon payment  
4 in full of the purchase price. In the case of real property,  
5 such certificate shall set forth the real property purchased,  
6 for whose taxes the same was sold, the name of the purchaser  
7 and the price paid therefor.

8       (b) *Deed to real property.* — In the case of any real  
9 property sold as provided in section thirteen-c and not  
10 redeemed in the manner and within the time provided in  
11 section thirteen-e, the Tax Commissioner shall execute, in  
12 accordance with the laws of this state pertaining to sales of  
13 real property under execution, to the purchaser of that real  
14 property at the sale, upon his or her surrender of the certifi-  
15 cate of sale, a deed to the real property so purchased by him  
16 or her reciting the facts set forth in the certificate.

17       (c) *Real property purchased by the state.* — If real  
18 property is declared purchased by the State of West Virginia  
19 at a sale pursuant to section thirteen-c, the Tax Commis-  
20 sioner shall, at the proper time, execute a deed therefor, and  
21 without delay cause the deed to be duly recorded in the office  
22 of the clerk of the county in which the real property is  
23 located.

24       (d) *Removal of personal property.* — Following the  
25 execution of a deed to real property pursuant to this section,  
26 and after the previous owner has vacated the property either  
27 voluntarily or following an eviction proceeding, any personal  
28 property remaining on the real property may be deemed  
29 abandoned if the purchaser of the real property provides  
30 notice, pursuant to this subsection, and the personal property

31 remains on the real property at the conclusion of the notice  
32 period. The notice shall state that the personal property will  
33 be deemed abandoned if it is not removed from the real  
34 property before the end of the thirtieth day following the  
35 postmark date of the notice. If the locks are changed or the  
36 previous owner is otherwise prevented from accessing the  
37 personal property, the purchaser shall provide the previous  
38 owner access to the personal property on reasonable terms.  
39 The notice shall state a phone number, a mailing address,  
40 and a physical address where the purchaser or an agent for  
41 the purchaser who can provide access to the personal  
42 property can be contacted; and shall further state that the  
43 previous owner may contact the purchaser, and that pur-  
44 chaser will provide the previous owner access to the personal  
45 property on reasonable terms. The notice shall be sent to the  
46 former owner(s) of the real property at their usual place of  
47 business or their usual place of abode or last known address.  
48 If the purchaser has received notice in writing or by elec-  
49 tronic record that personal property belongs to another or  
50 that another person or entity has a security interest in the  
51 personal property, and if that person's mailing address is  
52 also received by the purchaser in writing or by electronic  
53 record, notice shall be sent to that person or entity as well.  
54 The notice shall be made to all required persons, as stated in  
55 this section, by both certified mail and regular mail. The  
56 notice is complete when mailed, notwithstanding the fact  
57 that the notice may be returned as unclaimed or refused. If  
58 the notice period passes and the personal property remains  
59 on the real property, then the personal property shall be  
60 deemed abandoned and the purchaser of the real property  
61 may dispose of the remaining personal property in his or her  
62 discretion. The notice required by this section may not be  
63 waived before the property is vacated.

## **CHAPTER 38. LIENS.**

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

#### **§38-1-16. Personal property after foreclosure; notice and access to recover personal property; abandonment.**

1 Following a foreclosure on residential real property  
2 pursuant to this article, and after the previous owner has

3 vacated the property either voluntarily or following an  
4 eviction proceeding, any personal property remaining on the  
5 real property may be deemed abandoned if the purchaser of  
6 the real property provides notice, pursuant to this section,  
7 and the personal property remains on the real property at the  
8 conclusion of the notice period. The notice shall state that  
9 the personal property will be deemed abandoned if it is not  
10 removed from the real property before the end of the thirti-  
11 eth day following the postmark date of the notice. If the  
12 locks are changed or the previous owner is otherwise  
13 prevented from accessing the personal property, the pur-  
14 chaser shall provide the previous owner access to the  
15 personal property on reasonable terms. The notice shall state  
16 a phone number, a mailing address, and a physical address  
17 where the purchaser or an agent for the purchaser who can  
18 provide access to the personal property can be contacted;  
19 and shall further state that the previous owner may contact  
20 the purchaser, and that purchaser will provide the previous  
21 owner access to the personal property on reasonable terms.  
22 The notice shall be sent to the former owner(s) of the real  
23 property at all the address(es) to which notice of foreclosure  
24 sale was sent as set forth in the trustee's report of sale, as  
25 well as the last known address, if different. If the purchaser  
26 has received notice in writing or by electronic record that  
27 personal property belongs to another or that another person  
28 or entity has a security interest in the personal property, and  
29 if that person's or entity's mailing address is also received by  
30 the purchaser in writing or by electronic record, notice shall  
31 be sent to that person or entity as well. The notice shall be  
32 made to all required persons, as stated in this section, by  
33 both certified mail and regular mail. The notice is complete  
34 when mailed, notwithstanding the fact that the notice may  
35 be returned as unclaimed or refused. If the notice period  
36 passes and the personal property remains on the real prop-  
37 erty, then the personal property shall be deemed abandoned  
38 and the purchaser of the real property may dispose of the  
39 remaining personal property in the purchaser's discretion.  
40 The notice required by this section may not be waived before  
41 the property is vacated.

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

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*Chairman Senate Committee*

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*Chairman House Committee*

Originated in the Senate.

In effect ninety days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the .....  
Day of ....., 2012.

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*Governor*