

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 55**

4 (By Senators Sypolt, McCabe and Carmichael)

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6 [Originating in the Committee on Government Organization;  
7 reported February 21, 2013.]  
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12 A BILL to amend the Code of West Virginia, 1931, as amended, by  
13 adding thereto a new section, designated §11-15-9o, relating  
14 generally to consumers sales and service tax liability of  
15 homeowners' associations and their members; and exempting from  
16 consumers sales and service tax liability the dues, fees and  
17 assessments paid by members to homeowners' associations which  
18 are to be used by the homeowners' association acting in its  
19 representative capacity for all members to purchase for the  
20 members, rather than sell to the members, such goods and  
21 services.

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

23 That the Code of West Virginia, 1931, as amended, be amended  
24 by adding thereto a new section, designated §11-15-9o, to read as  
25 follows:

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

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

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

18 (b) For purposes of this article:

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

24 (2) "Member" means a person having membership rights in a

1 homeowners' association, in accordance with the provisions of its  
2 articles of incorporation, bylaws or other instruments creating its  
3 form and organization; and having bona fide rights and privileges  
4 in the organization ordinarily conferred on members of the  
5 homeowners' association, such as the right to vote, the right to  
6 elect officers and directors and the right to hold office within  
7 the organization. The term "member" also includes a "unit owner"  
8 as that term is defined in section one hundred three, article one,  
9 chapter thirty-six-b of this code.