

1 **Senate Bill No. 82**

2 (By Senators Sypolt and M. Hall)

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4 [Introduced January 8, 2014; referred to the Committee on
5 Government Organization; and then to the Committee on Finance.]

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7 **FISCAL**
8 **NOTE**

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §11-15-9o, relating
12 generally to consumers sales and service tax liability of
13 homeowners' associations and their members; exempting from
14 consumers sales and service tax liability the dues, fees and
15 assessments paid by members to homeowners' associations when
16 used by the homeowners' association for payment of common
17 expenses; taxable expenses of homeowners' association; and
18 definitions.

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 §11-15-9o, to read as
22 follows:

23 **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; taxable**
3 **expenses of homeowner's association; definitions.**

4 (a) Membership dues, fees and assessments paid to a
5 homeowners' association by a member thereof are exempt from the tax
6 imposed by this article if the dues, fees and assessments are for
7 the purpose of permitting or funding the homeowner's associations'
8 payment of common expenses when acting in its representative
9 capacity for all members: *Provided*, That purchases for resale of
10 tangible personal property and services for use by the homeowners'
11 association, when acting in its representative capacity for all
12 members, are subject to the tax under this article unless the
13 purchases are otherwise exempt under another provision of this
14 code.

15 (b) For purposes of this article:

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

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

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

8 (3) "Common expenses" means expenditures made by, or financial
9 liabilities of, the association, together with any allocations to
10 reserves, where the association is acting on behalf of, and for the
11 benefit of its members.

NOTE: The purpose of this bill is to exempt homeowners'
association dues, fees and assessments from consumers sales and
service tax under certain circumstances.

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