

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 329**

4 (By Senators Walters, Leonhardt and Takubo)

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6 [Originating in the Committee on Government Organization;
7 reported February 20, 2015.]
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12 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
13 designated §37-16-1, §37-16-2, §37-16-3 and §37-16-4, all relating to requiring a seller of
14 real property satisfy upon closing any unpaid charges owed to the county and municipality in
15 which the property is located.

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

17 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
18 article, designated §37-16-1, §37-16-2 §37-16-3 and §37-16-4, all to read as follows:

19 **ARTICLE 16. SELLER OF REAL PROPERTY TO SATISFY UNPAID CHARGES TO**
20 **COUNTY AND MUNICIPALITY.**

21 **§37-16-1. Definitions.**

22 In this article:

23 (1) “Charges” means all rates, fees and assessments assessed by a county under chapter seven

1 of this code or a municipality under section thirteen, article thirteen, chapter eight of this code and
2 penalties and interest for unpaid or delinquent rates, fees and assessments.

3 (2) "Closing agent" means a person or business that is responsible for completing the sale of
4 real estate property.

5 (3) "Business day" means a day the offices of the county or municipality are open for business.

6 **§37-16-2. Seller's requirements; written agreement constitutes request by seller to disburse**
7 **charges upon closing.**

8 (a) The seller of a fee interest in real property is responsible for satisfying, upon closing, any
9 outstanding charges owed to the county and municipality in which the real property is located,
10 including, but not limited to, charges for refuse, sewer, water, wastewater, solid waste, fire services
11 and parking.

12 (b) The seller shall, as a provision in a written agreement for the purchase and sale of real
13 estate, specifically inform the closing agent for the sale of any county or municipal service provided
14 to the property. The provision of the information in a written agreement for the purchase and sale of
15 real estate constitutes a written request to the closing agent to administer disbursement of closing
16 funds necessary to satisfy unpaid charges owed the county or municipality.

17 **§37-16-3. Closing agent's requirements; county and municipality requirements.**

18 (a) The closing agent shall submit a request for a final billing to each county and municipality
19 identified by the seller under section two of this article. A closing agent who fails to request a final
20 billing identified in section two of this article is liable to the purchaser for the unpaid charges covered
21 by the request. A closing agent is not liable if the seller provides incomplete or incorrect information
22 to the closing agent.

23 (b) After receiving a request for a final billing, a county or municipality shall provide the

1 requesting party with a written estimated or actual final billing within five business days of the
2 request. If the county or municipality is unable to provide a written estimated or actual final billing
3 rate, due to insufficient information to identify the account, it shall notify the requesting party in
4 writing that the information is insufficient to identify the account.

5 (c) The final billing must include all outstanding charges and the average per diem rate for
6 county and municipal services for up to thirty days beyond the stated closing date if the closing date
7 is delayed.

8 (d) A closing agent must inform the seller of all applicable estimated and actual final billings
9 furnished by the county or municipality.

10 **§37-16-4. Exceptions.**

11 (a) The provisions of this article shall not apply to a trustee's sale of real property under a
12 deed of trust pursuant to section three, article one, chapter thirty-eight of this code or under a
13 mortgage foreclosure.

14 (b) The requirements of this article shall be subordinate to any and all obligations secured
15 by a deed of trust. A closing agent shall only disburse closing funds to satisfy unpaid charges to a
16 county or municipality if the closing funds first satisfy any and all obligations secured by a deed of
17 trust.

NOTE: The purpose of this bill is to require seller of real property to satisfy any unpaid charges to the county and municipality in which the property is located. This bill creates obligations for the seller, closing agent, and county or municipality to provide information necessary to accomplish this goal and creates liabilities for failure to comply.

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