

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 503

BY SENATORS SYPOLT, BOSO, TRUMP, PLYMALE AND

WILLIAMS

[Introduced February 3, 2016;

Referred to the Committee on Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §11-15-9o, relating generally to consumers sales and service tax liability of
 3 homeowners' associations and their members; and exempting from tax dues, fees and
 4 assessments paid to homeowners' associations by members thereof which are to be used
 5 by the homeowners' associations acting in its representative capacity for all members to
 6 purchase for the members, rather than sell to the members, the goods and services.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

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

1 (a) Membership dues, fees and assessments paid to a homeowners' association by a
 2 member thereof are exempt from the tax imposed by this article if the dues, fees and assessments
 3 are for the purpose of permitting or funding the homeowner's association to contract for purchase
 4 of third-party goods or services when acting in its representative capacity for all members, and
 5 only as a conduit for funds from the members, and not when the homeowner's association is
 6 selling taxable goods and services, without profit to its members: *Provided*, That the homeowner's
 7 association pays the tax imposed under this article on its purchases of goods and services when
 8 its members claim the exemption.

9 (b) For purposes of this section:

10 (1) "Homeowners' association" means a homeowners' association as defined in Section
 11 528 of the Internal Revenue Code of 1986, as amended. The term "homeowners' association"
 12 also includes any unit owners association organized under section one hundred one, article three,
 13 chapter thirty-six-b of this code.

14 (2) "Member" means a person having membership rights in a homeowners' association,
15 in accordance with the provisions of its articles of incorporation, bylaws or other instruments
16 creating its form and organization; and having bona fide rights and privileges in the organization
17 ordinarily conferred on members of the homeowners' association, such as the right to vote, the
18 right to elect officers and directors and the right to hold office within the organization. The term
19 "member" also includes a "unit owner" as that term is defined in section one hundred three, article
20 one, chapter thirty-six-b of this code.

NOTE: The purpose of this bill is to exempt from consumers sales and service tax homeowners' association dues, fees and assessments paid by members thereof which are to be used by the homeowner's association acting in its representative capacity for all members to purchase for the members, rather than sell to the members, the goods and services.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.