

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 54

BY SENATOR SYPOLT

[Introduced January 13, 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 altering way tax is collected on homeowners'
3 associations; exempting from consumers sales and service tax liability dues, fees and
4 assessments paid by members to homeowners' associations when used by the
5 homeowners' association for payment of common expenses; taxable expenses of
6 homeowners' association; and definitions.

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; taxable expenses of homeowners' association; definitions.**

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 homeowners' associations' payment of common
4 expenses when acting in its representative capacity for all members: *Provided*, That purchases
5 for resale of tangible personal property and services for use by the homeowners' association,
6 when acting in its representative capacity for all members, are subject to the tax under this article
7 unless the purchases are otherwise exempt under another provision of this code.

8 (b) For purposes of this article:

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

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

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

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

NOTE: The purpose of this bill is to change the way taxes are collected from homeowner associations when homeowners' association dues, fees and assessments are used for common expenses.

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

FINANCE COMMITTEE AMENDMENT

On page one, section nine-o, line eight, by striking out the word "all" and inserting in lieu thereof the word "its".