

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 93**

BY SENATOR WALTERS

[Introduced January 13, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §37-16-1, §37-16-2, §37-16-3 and §37-16-4, all relating to requiring a seller  
 3 of real property satisfy upon closing any unpaid charges owed to the county and  
 4 municipality in which property is located.

*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 article, designated §37-16-1, §37-16-2, §37-16-3 and §37-16-4, all to read as follows:

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

**§37-16-1. Definitions.**

1 In this article:

2 (1) "Charges" means all rates, fees and assessments assessed by a county under  
 3 chapter seven of this code or a municipality under section thirteen, article thirteen, chapter  
 4 eight of this code and penalties and interest for unpaid or delinquent rates, fees and  
 5 assessments.

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

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

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

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

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

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

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

16           (b) After receiving a request for a final billing, a county or municipality shall provide  
17 the requesting party with a written estimated or actual final billing within five business days  
18 of the request. If the county or municipality is unable to provide a written estimated or  
19 actual final billing rate, due to insufficient information to identify the account, it shall notify  
20 the requesting party in writing that the information is insufficient to identify the account.

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

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

**§37-16-4. Exceptions.**

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

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

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