

COMMITTEE SUBSTITUTE

FOR

H. B. 3177

(BY DELEGATES LAWRENCE, MARSHALL, DOYLE, PINO, HUNT
AND FRAZIER)

(Originating in the Committee on the Judiciary)
[February 10, 2012]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §38-1-16, relating to the status and rights of parties under a preexisting tenancy and lease when residential rental property is sold by a trustee pursuant to a deed of trust; right of new owner to terminate tenancy; right of existing tenant to terminate tenancy; minimum notice requirements to terminate tenancy; service requirements; survival of terms and conditions under preexisting lease; exceptions; and effective date.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §38-1-16, to read as follows:

ARTICLE 1. VENDOR'S AND TRUST DEED LIENS.

§38-1-16. Sale of real property pursuant to a deed of trust; preexisting tenancy.

1 (a) Notwithstanding the notice requirements of section
2 five, article six, chapter thirty-seven of this code, following
3 the conveyance of residential rental property to a purchaser
4 by a trustee pursuant to a deed of trust, the tenancy of a
5 tenant occupying the property under an unexpired written
6 lease may be terminated by giving ninety days written notice
7 or by giving written notice not less than thirty days prior to
8 the expiration of the lease, whichever is shorter. However,
9 the tenancy of a tenant occupying the property under a month
10 to month or other tenancy may be terminated by giving thirty
11 days written notice. The terms and conditions of the lease of
12 the property remain fully enforceable during the notice
13 period. If the tenant fails to timely comply with the terms of
14 the lease, the new owner, or the agent of the new owner, may
15 proceed under article three-a of chapter fifty-five of this code,
16 notwithstanding the provisions of this section. The tenancy
17 of a factory built home may only be terminated as provided
18 in section six, article fifteen, chapter thirty-seven of this code.

19 (b) When notice is given to a tenant, it may be served upon
20 the tenant, or anyone else holding the leased premises, or any

21 part thereof, under the tenant. When notice is given by the
22 tenant, it may be served upon any person owning the premises,
23 in whole or in part, or the agent of an owner.

24 (c) The provisions of this section take effect on the first
25 day of January, two thousand thirteen.