

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 360**

(By Senators Tucker and Plymale)

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[Originating in the Committee on the Judiciary;  
reported January 31, 2012.]

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A BILL to amend and reenact §11-10-13f of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §38-1-16, all relating to creating a procedure for deeming personal property abandoned following a transfer of real property by tax sale or foreclosure; requiring notice to the owner of personal property remaining on real property after the previous owner has vacated; creating a procedure for notice and setting a thirty-day period for removal of personal property; giving the purchaser of real property the authority to remove personal property after proper notice and waiting period; and prohibiting waiver of notice requirement prior to vacation of property.

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

That §11-10-13f of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §38-1-16, all to read as follows:

**CHAPTER 11. TAXATION.**

**ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.**

**§11-10-13f. Certificate of sale; deed to real property; removal of personal property.**

1       (a) *Certificate of sale.* — In the case of property sold as  
2 provided in section thirteen-c the Tax Commissioner shall  
3 provide to the purchaser a certificate of sale upon payment  
4 in full of the purchase price. In the case of real property,  
5 such certificate shall set forth the real property purchased,  
6 for whose taxes the same was sold, the name of the purchaser  
7 and the price paid therefor.

8       (b) *Deed to real property.* — In the case of any real  
9 property sold as provided in section thirteen-c and not  
10 redeemed in the manner and within the time provided in  
11 section thirteen-e, the Tax Commissioner shall execute, in  
12 accordance with the laws of this state pertaining to sales of

13 real property under execution, to the purchaser of ~~such~~ that  
14 real property at ~~such~~ the sale, upon his or her surrender of  
15 the certificate of sale, a deed to the real property so pur-  
16 chased by him or her reciting the facts set forth in the  
17 certificate.

18 (c) *Real property purchased by the state.* — If real  
19 property is declared purchased by the State of West Virginia  
20 at a sale pursuant to section thirteen-c, the Tax Commis-  
21 sioner shall, at the proper time, execute a deed therefor, and  
22 without delay cause ~~such~~ the deed to be duly recorded in the  
23 office of the clerk of the county in which the real property is  
24 located.

25 (d) Removal of personal property. — Following the  
26 execution of a deed to real property pursuant to this section,  
27 and after the previous owner has vacated the property either  
28 voluntarily or following an eviction proceeding, any personal  
29 property remaining on the real property may be deemed  
30 abandoned if the purchaser of the real property provides  
31 notice, pursuant to this subsection, and the personal property  
32 remains on the real property at the conclusion of the notice  
33 period. The notice shall state that the personal property will  
34 be deemed abandoned if it is not removed from the real

35 property before the end of the thirtieth day following the  
36 postmark date of the notice. The notice shall be sent to the  
37 former owner(s) of the real property at the address(es) listed  
38 on the lien and deed of trust, as well as the last known  
39 address, if different. If the purchaser has received notice in  
40 writing or by electronic record that personal property  
41 belongs to another or that another person or entity has a  
42 security interest in the personal property, and if that per-  
43 son's mailing address is also received by the purchaser in  
44 writing or by electronic record, notice shall be sent to that  
45 person or entity as well. The notice shall be made to all  
46 required persons, as stated in this section, by both certified  
47 mail and regular mail. The notice is complete when mailed,  
48 notwithstanding the fact that the notice may be returned as  
49 unclaimed or refused. If the notice period passes and the  
50 personal property remains on the real property, then the  
51 personal property shall be deemed abandoned and the  
52 purchaser of the real property may dispose of the remaining  
53 personal property in his or her discretion. The notice re-  
54 quired by this section may not be waived before the property  
55 is vacated.

**CHAPTER 38. LIENS.**

**ARTICLE 1. VENDOR'S AND TRUST DEED LIENS.**

**§38-1-16. Personal property after foreclosure; abandonment.**

1 Following a foreclosure on residential real property  
2 pursuant to this article, and after the previous owner has  
3 vacated the property either voluntarily or following an  
4 eviction proceeding, any personal property remaining on the  
5 real property may be deemed abandoned if the purchaser of  
6 the real property provides notice, pursuant to this section,  
7 and the personal property remains on the real property at the  
8 conclusion of the notice period. The notice shall state that  
9 the personal property will be deemed abandoned if it is not  
10 removed from the real property before the end of the thirti-  
11 eth day following the postmark date of the notice. The notice  
12 shall be sent to the former owner(s) of the real property at all  
13 the address(es) to which notice of foreclosure sale was sent  
14 as set forth in the trustee's report of sale, as well as the last  
15 known address, if different. If the purchaser has received  
16 notice in writing or by electronic record that personal  
17 property belongs to another or that another person or entity  
18 has a security interest in the personal property, and if that  
19 person's or entity's mailing address is also received by the

20 purchaser in writing or by electronic record, notice shall be  
21 sent to that person or entity as well. The notice shall be made  
22 to all required persons, as stated in this section, by both  
23 certified mail and regular mail. The notice is complete when  
24 mailed, notwithstanding the fact that the notice may be  
25 returned as unclaimed or refused. If the notice period passes  
26 and the personal property remains on the real property, then  
27 the personal property shall be deemed abandoned and the  
28 purchaser of the real property may dispose of the remaining  
29 personal property in the purchaser's discretion. The notice  
30 required by this section may not be waived before the  
31 property is vacated.