

**Senate Bill No. 388**

(By Senators Sypolt, Beach, Blair, M. Hall, Kessler, Leonhardt, Prezioso, Snyder, Trump, Unger,  
Williams, Stollings and Nohe)

[Introduced February 2, 2015; referred to the Committee on Finance.]

**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9o, relating generally to altering the way tax is collected on homeowners' associations; exempting from consumers sales and service tax liability dues, fees and assessments paid by members to homeowners' associations when used by the homeowners' association for payment of common expenses; taxable expenses of homeowners' association; and definitions.

*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 §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 homeowner's association; definitions.**

(a) Membership dues, fees and assessments paid to a homeowners' association by a member

1 thereof are exempt from the tax imposed by this article if the dues, fees and assessments are for the  
2 purpose of permitting or funding the homeowner's associations' payment of common expenses when  
3 acting in its representative capacity for all members: *Provided*, That purchases for resale of tangible  
4 personal property and services for use by the homeowners' association, when acting in its  
5 representative capacity for all members, are subject to the tax under this article unless the purchases  
6 are otherwise exempt under another provision of this code.

7 (b) For purposes of this article:

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

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

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

This section is new; therefore, strike-throughs and underscoring have been omitted.