

**ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 3082**

(By Delegates Moore, Webster, Shook, Caputo,
Barker, Fleischauer, Fragale, Miley,
Marshall and Perry)

[Passed April 8, 2009; in effect ninety days from passage.]

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 §31A-2-4c; that said code be amended by adding thereto a new section, designated §38-1-8a; that said code be amended by adding thereto a new section, designated §44-13-4a; and that §59-1-10 of said code be amended and reenacted, all to read as follows:

CHAPTER 31A. BANKS AND BANKING

ARTICLE 2. DIVISION OF BANKING

§31A-2-4c. County Clerk to file reports of trustees regarding sales of residential real property pursuant to deeds of trust and forward to the banking commissioner.

(a) In addition to the jurisdiction, powers, and duties set out in section four of this article, the banking commissioner is vested with the jurisdiction, powers and duties to receive and compile the data into an electronic data base and make available the raw data that is required to be reported by trustees to county clerks pursuant to chapter thirty-eight, article one, section eight-a of the Code of West Virginia. The commissioner has the power to promulgate rules in accordance with this section and the provisions of article three, chapter twenty-nine-a of this code in order to carry out the requirements of this section. The commissioner is authorized to expend funds for this purpose.

CHAPTER 38. LIENS

ARTICLE 1. VENDOR'S AND TRUST DEED LIENS

§38-1-8a Reports by Trustee to County Clerk; additional information to be filed with report of sale.

(a) This section applies to deeds of trust if the property conveyed therein includes real property that is occupied, or is intended to be occupied as a residence by the grantor at time the deed of trust is executed and delivered.

(b) Beginning July 1, 2009, when a report of the sale of the property sold pursuant to a deed of trust is placed of record by the trustee with the clerk of the county commission as provided in section eight of this article, the trustee shall include the following information on a disclosure form submitted with and made a part of the report of sale:

- (1) Name or names of the grantor of the deed of trust;*
- (2) Street address, city, state and zip code of real property subject to the trust;*
- (3) Original trustee name;*
- (4) Substitute trustee name, if any, and date of appointment;*
- (5) The address, telephone number and electronic contact information for the trustee making the sale;*
- (6) Date, time and place advertised for sale;*
- (7) Name of original secured lender;*
- (8) Current holder of deed of trust, and the current holder's address;*
- (9) Original principal amount of the secured debt;*
- (10) Original interest rate;*
- (11) Whether the loan was adjustable and if so current rate;*
- (12) Total secured indebtedness at time of sale;*
- (13) The number of months the loan is delinquent at time of notice of sale; and*
- (14) The date, time and place of sale;*
- (15) The name of the purchaser;*

(16) The appraised value at the time of loan, if available;

(17) The net amount applied to the secured loan;

(18) The date the report of sale is recorded and,

(19) Any other information the banking commissioner may require by rule.

(c) The commissioner of banking shall publish a form setting out the information required by subsection (b) and instructions as to how this information is to be filed with the report of sale.

(d) Notwithstanding any other provision of this code, nothing in this section shall be deemed to create a responsibility by the commissioner of banking to provide any report other than the compiled raw data submitted from each county clerk or to verify the accuracy of the data submitted.

(e) Failure to comply with this the provisions of this section shall not affect the validity of the sale or the title to the property sold by the trustee.

CHAPTER 44. ADMINISTRATION OF ESTATES AND TRUSTS.

ARTICLE 13. POWERS AND DUTIES OF CLERKS OF COUNTY COURTS IN COUNTIES HAVING SEPARATE TRIBUNAL FOR POLICE AND FISCAL PURPOSES.

§44-13-4a. Reporting of foreclosure statistics.

(a) Beginning with the third quarter of 2009, the clerk of each county commission shall file quarterly with the Division of Banking the disclosure forms of deed of trust foreclosure sales that were recorded in that county for the preceding calendar year quarter. The reports shall be filed within fifteen days of the last day of September, December, March and June of each year. The reports shall be filed in electronic format, where possible.

(b) Notwithstanding any other provision of this code, nothing in this section shall be deemed to create a responsibility on the division of banking to provide any report other than the complied raw data submitted from each county clerk or to verify the accuracy of the data submitted.

CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWSPAPERS; LEGAL ADVERTISEMENTS.

ARTICLE 1. FEES AND ALLOWANCES.

§ 59-1-10. Fees to be charged by clerk of county commission

For the purpose of this section, the word "page" is defined as being a paper or electronic writing of not more than legal size, 8 ½" x 14".

The clerk of the county commission shall charge and collect the following fees:

(a) When a writing is admitted to record, for receiving proof of acknowledgment thereof, entering an order in connection therewith, endorsing clerk's certificate of recordation thereon and indexing in a proper index, where the writing is a:

(1) Deed of conveyance (with or without a plat), trust deed, fixture filing or security agreement concerning real estate lease, fifteen dollars.

(2) Trustee's report of sale for any property for which additional information and filing requirements are required by section eight-a, article 1, chapter thirty-eight of this code, \$40, provided that \$20 dollars of each recording fee received pursuant to this subdivision shall be deposited into the county's general revenue fund and \$20 dollars of each of the aforesaid recording fees shall be paid by the county clerk to the State Treasurer quarterly and deposited in the banking commissioner's fund to cover its expenses in aggregating, collecting and publishing the data.