

Cloverdale NEWS

STATUS WV 2016 legislative actions signed by Governor Tomblin

Relative to HOAs - 4-13-2016 effective 90 days from passage

- **PASSED: Senate Bill 54** - Altering how tax is collected on homeowners' associations - HOAs are now exempt from sales & service tax.
- **PASSED: Senate Bill 614\*** The obligation of a property owner, lot owner or homeowner in a planned community containing no more than twelve units which is not subject to any development rights or a planned community that provides in its declaration that the annual average common expense liability of all units restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, may not exceed \$300 as adjusted pursuant to section one hundred fourteen, chapter one, article thirty-six-b of this code, or the efforts of property owners' associations or homeowners' associations to collect the same to pay dues, assessments, costs or fees of any kind to a property owners' association or homeowners' association.
- **PASSED: House Bill 2801** A county commission may designate areas of special or unique interest, with sites, buildings and structures within those areas, which are of local, regional, statewide or national significance. An area that has been so designated does not limit the use of nor require any alteration of any privately owned property in the area for any purpose.

\* Clarifies HOAs can use a fine method in obtaining delinquent annual assessments. They are NOT a debt collector as defined in the Consumer Protection Act.

ALSO:

WV §46A-5-101. Effect of violations on rights of parties; limitation of actions.

"With respect to violations arising from consumer credit sales, consumer leases, or consumer loans, or from sales as defined in article six of this chapter, no action pursuant to this subsection may be brought more than four years (4) after the violations occurred. This limitations period shall apply to all actions filed on or after September 1, 2015."

SOURCE:

<http://www.legis.state.wv.us/wvcode/ChapterEntire.cfm?chap=46a&art=5>

Also for the consumer protection act as it stands PRIOR to June 2016:

"Establishes that no action can be brought more than four years after the violation occurred (instead of the current limit of one year after the due date of the last scheduled payment of the agreement pursuant to which the charge was paid), applicable to actions filed on or after Sept. 1, 2015."

SOURCE:

<http://www.acainternational.org/governmentaffairs-west-virginia-governor-signs-debt-collection-law-35617.aspx>

PRIOR to June 2016 HOAs were included as debt collectors under the Consumer Protection Act. This Act trumps HOA Governing documents for recovering fines, fees, legal expenses and/or court costs.