WEST VIRGINIA CODE: §11-10-13C

§11-10-13c. Sale of seized property.

(a) Notice of seizure. -- As soon as practicable after seizure of property, notice in writing shall be given by the Tax Commissioner to the owner of the property (or, in the case of personal property, the possessor thereof), or shall be left at his usual place of abode or business if he has such within the county where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such county, the notice may be mailed to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(b) Notice of sale. -- The Tax Commissioner may sell any property seized under section thirteen of this article. As soon as practicable after the seizure of the property, the Tax Commissioner shall give notice to the owner, in the manner prescribed in subsection (a), and shall cause a notice of sale to be published as a Class II legal advertisement in some newspaper published or generally circulated within the county wherein such seizure is made, or the county where the property is located, the last date of publication being not less than five days prior to sale. This notice shall identify the property to be sold, and the date, time, place, manner and conditions of the sale thereof, all of which shall be at the discretion of the Tax Commissioner. The sale shall be conducted by public auction, or by public sale under sealed bids. Before the sale, the Tax Commissioner may determine a minimum price for which the property shall be sold, and if no person offers for such property at the sale, the amount of the minimum price, the property shall be declared to be purchased at such price for the State of West Virginia; otherwise the property shall be declared to be sold to the highest bidder. In determining the minimum price, the Tax Commissioner shall take into account the expense of making the levy and sale.

(c) Sale of indivisible property. -- If any property liable to levy is not divisible, so as to enable the Tax Commissioner by sale of a part thereof to raise the whole amount of the tax and expense of making the levy and sale, the whole of such property shall be sold. However, where the property sold is coowned or jointly-owned by the taxpayer and an innocent third party, the proceeds of sale shall be divided, based on the respective interests of the persons owning the property immediately prior to the levy and sale, and the proceeds attributable to the interest of the innocent owner or owners shall be distributed to them: Provided, That where the property to be sold is so coowned or jointly-owned by an innocent third party, having no delinquent tax liability attempted to be collected under such levy and sale, such innocent party may petition the circuit court of the county in which the property is located for relief, including postponement of the sale, in order that the court can determine if the property can be partitioned, so as to avoid sale of the innocent party's portion or grant and afford other relief by the court protective of the rights and interests of such innocent party.

WV Legislature