WEST VIRGINIA CODE: §11-4-9

§11-4-9. Assessment of different estates; undivided interests.

Whenever in chapter eleven or chapter thirty-seven, the words land or lands or tract or tracts of lands, or lot or lots, or real estate, or part or parcel of a tract or lot, or estate or estates in land or aliquot part of land, are used, they shall be read to include an undivided interest in land and an undivided interest in any estate in land, and such interests may be by the assessor charged to such owner on the landbooks separately to each owner according to his interest therein and shall be subject to all the provisions of chapters eleven and thirty-seven in relation to assessments, advertisements, delinquencies, sales, forfeitures, redemptions and tax deeds as now apply to entire tracts, so far as the state is concerned. Each such undivided interest so separately assessed shall be considered as if such undivided interest were a separate tract. And any such assessment of an undivided interest heretofore made upon which the taxes shall have been duly paid, and any return of delinquency or sale for taxes based on such an assessment, shall, so far as the state is concerned, be treated and held as valid and sufficient; and in such case any and all title which has become vested in the state because of any forfeiture or sale of any such interest when so assessed shall be vested in the party who would have had the title and been entitled to said interest if this section had been valid and in force when such assessment was made, but such validation shall not extend to the deprivation of title of such a third party as shall have meanwhile acquired valid title thereto by virtue of other provisions of law. Upon proper showing to the assessor, such an undivided interest shall be entered on the landbooks at the instance of the owner or the state and be back taxed as if it were a separate tract; but any person whose land or undivided interest therein is delinquent or as to which there is a purported assessment on which the taxes are unpaid for any of the years 1926 to 1934, inclusive, shall be estopped from pleading at law or in equity any defect in the assessment, advertisement, delinquency, sale, forfeiture, redemption or tax deed so long as the taxes or any part of same on such land or undivided interest therein are unpaid. When any person becomes the owner of the surface, and another or others become the owner of the coal, oil, gas, ore, limestone, fireclay, or other minerals or mineral substances in and under the same, or of the timber thereon, the assessor shall assess such respective estates, or any undivided interest therein, to the respective owners thereof, or to groups of same requesting such group assessment, at their true and actual value, according to the rule prescribed in this chapter. When any person or persons are, or become, the owner or owners of any undivided interest or interests in land, or in the surface, coal, oil, gas, ore, limestone, fireclay, timber or other estate or estates therein, the owner or owners of such undivided interest or interests shall have their land, or estate or interest or undivided interest in such land, or in such estate in land, entered on the landbooks of the county in which it or a part of it is situated, and cause himself to be charged with taxes legally levied on such interest or undivided interest, but may on request of such owner to the assessor, and without consent or acquiescence of the other joint owner or owners of the other undivided interest or interests have such undivided interest or interests assessed to him or them separately and independently of the other

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undivided interest or interests therein; and all such assessments of undivided interests heretofore entered on the assessment books are hereby validated insofar as the same are now in, or liable to vest in the state. The words "owner or owners" as used in this section shall include any claimant or claimants who now appear as such on the assessment books or are entitled to have the land or interest in land or interest in an estate in land claimed by him or them to be entered and assessed for taxation. All acts and parts of acts relating to the taxation, delinquency, sale, procuring of tax deeds by individual purchasers, advertisement, forfeiture and redemption of lands or real estate shall also apply with the same force to said estates in land, and any cotenant, coparcener or joint tenant, in the absence of satisfactory proof of a fiduciary relationship, shall be entitled to acquire by tax purchase for his own account the interest of any, or all of his coowners in any tract, lot, estate or parcel of land, without being required to hold the same under any constructive trust; and the burden of proof shall rest on any person alleging such a constructive trust, and such a constructive trust shall prima facie be nonexistent.

In any tax sale by a sheriff, school commissioner or commissioner of forfeited lands, only the tract, lot, estate, interest or undivided interest proceeded against in that particular instance shall pass to the purchaser, so far as the state is concerned, so that any other estate, interest or undivided interest in the same tract not embraced in such sale shall not be affected by such sale, nor shall the title, or rights of the owners or claimants of such other estate, interest, or undivided interest in land be affected thereby.

When for any year or years after 1925, the undivided interest of any person shall not have been entered and taxed on the landbooks, or where such interest may have been assessed, and taxes thereon for any one or more, or all, of said years shall not have been paid to the state, such person, or his successor in title, or a coowner of same, shall be entitled to redeem his and/or any or all of his coowners' interest from the state, so far as the state has title or claim thereto by reason of such nonentry or nonpayment of taxes, and the same has not been vested in third persons under the laws of West Virginia, upon application to the Auditor in writing, and payment of such amount as the Auditor shall find to be due the state on account of taxes that should have been paid; and in such cases the Auditor shall issue certificates of redemption in manner and form provided by law for redemption of land, and such redemption shall thereafter estop the state from asserting any claim to such interest on account of such nonentry or nonpayment of taxes: Provided, however, That redemption under this section shall be made prior to the time the state shall sell the same, in any proceeding for the purpose, or before January 1, 1939, whichever first occurs; but the failure of any person, owning, claiming, or having the right to redeem any other undivided interest in the land, or estate in land, to redeem as aforesaid, shall in no wise affect, impair the right of, or preclude any coowner from redeeming his interest under this section. The owner may be permitted by the Auditor, upon application in writing, to redeem said land or estate in land or his undivided interest therein, to the extent that the title thereto has not passed to strangers, by payment of such an amount as the taxes on same respectively would have been with interest and penalties. If one coowner redeems the undivided interest of one or more of his coowners by paying the taxes on same as above, such coowner so redeeming shall be

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subrogated to the lien of the state for so much of such taxes as should have been paid by such other coowner against the interest of such other coowner in such property. He shall lose his right to such lien, however, unless within one year after such redemption by him he shall file with the clerk of the county court his claim in writing against such other coowner, accompanied by the tax receipt or a duplicate thereof. The clerk shall docket such claim on the judgment lien docket in his office and properly index the same. Such lien may be enforced as other liens are enforced.

Nothing in this section shall affect the right of any party to any action or suit heretofore finally adjudicated, or that may be now pending or that may be instituted on or before July 1, 1935.

WV Legislature