WEST VIRGINIA CODE: §11A-3-60

§11A-3-60. Compelling service of notice or execution of deed.

If the deputy commissioner fails or refuses to prepare and serve the notice to redeem as required in sections fifty-four and fifty-five of this article, the person requesting the notice may, at any time within two weeks after discovery of such failure or refusal, but in no event later than sixty days following the date the person requested that notice be prepared and served, apply by petition to the circuit court of the county for an order compelling the deputy commissioner to prepare and serve the notice or appointing a commissioner to do so. If the person requesting the notice fails to make such application within the time allowed, he shall lose his right to the notice, but his rights against the deputy commissioner under the provisions of section sixty-seven of this article shall not be affected. Notice given pursuant to an order of the court or judge shall be valid for all purposes as if given within the time required by section fifty-five of this article.

If the deputy commissioner fails or refuses to prepare and execute the deed as required in the preceding section, the person requesting the deed may, at any time after such failure or refusal, but not more than six months after his right to the deed accrued, apply by petition to the circuit court of the county for an order compelling the deputy commissioner to prepare and execute the deed or appointing a commissioner to do so. If the person requesting the deed fails to make such application within the time allowed, he shall lose his right to the deed, but his rights against deputy commissioner under the provisions of section sixty-seven of this article shall remain unaffected. Any deed executed pursuant to an order of the court shall have the same force and effect as if executed and delivered by the deputy commissioner within the time specified in the preceding section.

Ten days' written notice of every such application must be given to the deputy commissioner. If, upon the hearing of such application, the court is of the opinion that the applicant is not entitled to the notice or deed requested, the petition shall be dismissed at his costs; but, if the court is of the opinion that he is entitled to such notice or deed, then, upon his deposit with the clerk of the circuit court of a sum sufficient to cover the costs of preparing and serving the notice, unless such a deposit has already been made with the deputy commissioner, an order shall be made by the court directing the deputy commissioner to prepare and serve the notice or execute the deed, or appointing a commissioner for the purpose, as the court or judge shall determine. The order shall be filed with the clerk of the circuit court and entered in the civil order book. If it appears to the court that the failure or refusal of the deputy commissioner was without reasonable cause, judgment shall be given against him for the costs of the proceedings, otherwise the costs shall be paid by the applicant.

Any commissioner appointed under the provisions of this section shall be subject to the same liabilities as the deputy commissioner. For the preparation of the notice to redeem, he shall be entitled to the same fee as is provided for the deputy commissioner. For the preparation

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and execution of the deed, he shall also be entitled to a fee of $50 and recording expenses to be paid by the grantee upon delivery of the deed.

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