

WEST VIRGINIA CODE: §11A-4-4

§11A-4-4. Right to set aside deed when one entitled to notice not notified.

(a) If any person entitled to be notified under the provisions of section twenty-two or fifty-five, article three of this chapter is not served with the notice as therein required, and does not have actual knowledge that such notice has been given to others in time to protect his interests by redeeming the property, he his heirs and assigns, may, before the expiration of three years following the delivery of the deed, institute a civil action to set aside the deed. No deed shall be set aside under the provisions of this section until payment has been made or tendered to the purchaser, or his heirs or assigns, of the amount which would have been required for redemption, together with any taxes which have been paid on the property since delivery of the deed, with interest at the rate of twelve percent per annum.

(b) No title acquired pursuant to this article shall be set aside in the absence of a showing by clear and convincing evidence that the person who originally acquired such title failed to exercise reasonably diligent efforts to provide notice of his intention to acquire such title to the complaining party or his predecessors in title.

(c) Upon a preliminary finding by the court that the deed will be set aside pursuant to this section, such amounts shall be paid within one month of the entry thereof. Upon the failure to pay the same within said period of time, the court shall upon the request of the purchaser, enter judgment dismissing the action with prejudice.