WEST VIRGINIA CODE CHAPTER 11A

WV Legislature

§11A-1-1. Definition of terms.

The words tax, taxes, taxable and taxation as used in this chapter shall, unless otherwise specified, be applicable to all levies on real or personal property made by any of the taxing units named in section four, article eight, chapter eleven of this code.

The words land or lands or tract or tracts of lands, or lot or lots, or real estate, or real property, or part or parcel of a tract or lot, or estate or estates in land, as used in this chapter, shall be deemed to include an undivided interest in any freehold estate in land.

WV Legislature

§11A-1-2. Lien for real property taxes.

There shall be a lien on all real property for the taxes assessed thereon, and for the interest and other charges upon such taxes, at the rate and for the period provided by law, which lien shall attach on July 1, 1961, and each July 1 thereafter for the taxes payable for the ensuing fiscal year.

WV Legislature

§11A-1-3. Accrual; time for payment; interest on delinquent taxes.

(a) All current taxes assessed on real and personal property may be paid in two installments. The first installment shall be payable on September first of the year for which the assessment is made, and shall become delinquent on October first; the second installment shall be payable on the first day of the following March and shall become delinquent on April first. Taxes paid on or before the date when they are payable, including both first and second installments, shall be subject to a discount of two and one-half percent. If taxes are not paid on or before the date on which they become delinquent, including both first and second installments, interest at the rate of nine percent per annum shall be added from the date they become delinquent until paid.

(b) With regard to real and personal property taxes, when any return, claim, statement or other document is required to be filed, or any payment is required to be made within a prescribed period or before a prescribed date, and the applicable law requires delivery to the office of the sheriff of a county of this state, the methods prescribed in section five-f, article ten, chapter eleven of this code for timely filing and payment to the Tax Commissioner or Department of Tax and Revenue shall be the same methods utilized for timely filing and payment with such sheriff. Nothing contained in this subsection (b) shall prohibit the sheriff from establishing additional methods of payment in accordance with the provisions of section eight-a of this article.

WV Legislature

§11A-1-4. Collection by sheriff.

The sheriff, as ex officio county treasurer, shall collect all taxes levied in his county. For this purpose he shall have an office at the county seat, which shall be kept open daily during business hours.

WV Legislature

§11A-1-5. Appointment of collector; bond.

The county court may appoint a collector in any county when necessary to collect such taxes. The collector shall have a reasonable time for making collections and accounting therefor. Before acting, he shall execute an official bond, in the penalty of not less than $5,000, to be approved by the county court, and filed with the clerk thereof. All provisions of this chapter in respect to the rights, duties and liabilities of the sheriff shall be applicable to the collector, should one be appointed.

WV Legislature

§11A-1-6. When collection to commence.

The sheriff shall commence collection of current taxes on July 15, or as soon thereafter as he receives copies of the land and personal property books.

WV Legislature

§11A-1-7. No collection of current real property taxes until delinquent real property taxes are paid.

The sheriff, in preparing his or her real property tax receipts for any current year shall examine and compare them with the delinquent list for the preceding year in his or her hands, and if any tract is found to be delinquent for the preceding year, he or she shall note the fact on his or her current receipts and shall decline to receive current taxes on any land where it appears to his or her office that a prior year's real property taxes are unpaid. Acceptance of current taxes through oversight does not relieve the owner of any land of the liability to pay prior taxes and penalties imposed for nonpayment.

WV Legislature

§11A-1-7a. No collection of current personal property taxes until delinquent personal property taxes are paid.

The sheriff, in preparing his or her personal property receipts for any current year shall examine and compare them with the delinquent list for the preceding year in his or her hands, and if payment for any personal property is found to be delinquent for the preceding year, he or she shall note the fact on his or her current receipts and shall decline to receive current taxes on any personal property where it appears to his or her office that a prior year's personal property taxes are unpaid. Acceptance of current taxes through oversight does not relieve the owner of any personal property of the liability to pay prior taxes and penalties imposed for nonpayment.

WV Legislature

§11A-1-8. Notice of time and place for payment; mailing of tax tickets.

(a) The sheriff shall send to every person owing real or personal property taxes a copy of such taxpayers annual tax ticket or tickets showing what tax is due and how such tax may be paid. Such copy shall be sent to the last known address of such taxpayer by first class United States mail. The notice shall also state: (i) Those who pay the first installment of their taxes on or before the first day of September shall be entitled to a discount of two and one-half percent; and (ii) those who pay the second installment of their taxes on or before the first day of March shall be entitled to the same discount.

Failure of the sheriff to send or failure of the taxpayer to receive such copy shall not impair the right to collect such taxes, the right to collect any interest or penalty imposed as a result of the failure to pay such taxes or the method of enforcing the payment of such taxes, interest or penalty.

At such time as the sheriff prepares the delinquent list for real property, he or she shall compare such list with a copy of the landbooks most recently delivered by the assessor to the board of review and equalization pursuant to §11-3-19 of this code. The assessor shall make a copy of said landbooks available to the sheriff. If property on the delinquent list should appear as a transfer on said landbooks with the delinquent owner as the transferor, the sheriff shall send to the transferee at his or her last known address by first class United States mail a copy of the annual tax ticket or tickets showing what taxes are due upon the real property of such transferee and how they may be paid as prescribed in this section.

Failure of the sheriff to send or failure of the taxpayer to receive such copy shall not impair the right to collect such taxes, the right to collect any interest or penalty imposed as a result of the failure to pay such taxes or the method of enforcing the payment of such taxes, interest, or penalty.

(b) In addition to the notice of real or property taxes owed, provided in this section, the county commission of any county may order that the sheriff include in the mailing notice of any taxes or other fees owed to the county or a municipality in the county.

(c)(1) The sheriff shall accept credit cards in payment of any of the taxes, interest, or penalty described in this section. The type of credit card accepted shall be at the discretion of the sheriff.

(2) The sheriff may set a fee to be added to each credit card transaction equal to the charge paid by the state, county, sheriff, or taxpayer for the use of the credit card by the taxpayer. Except for fees imposed pursuant to this subdivision, no other fees for the use of a credit card may be imposed upon the taxpayer.

(d) The tax commissioner may promulgate legislative rules to provide for the payment of tax liability by installment payments other than those prescribed in subsection (a) of this section.

WV Legislature

§11A-1-8a. Providing for payment at banking institutions.

Notwithstanding any other provision of this code the sheriff, with the consent of the county commission, may enter into a contract with one or more banking institutions, as defined in section two, article one, chapter thirty-one-a of this code, doing business in the county for the purpose of receiving payment of property taxes.

Any such contract shall specify the manner in which all taxes received shall be paid to the sheriff and a method for verification by the sheriff and the county commission of all amounts received pursuant to the contract. The contract may provide for the payment of a reasonable fee for the provision of such services by the banking institution.

Nothing herein may be construed to affect the amount of the commission due the sheriff provided for in section seventeen of this article.

WV Legislature

§11A-1-9. Payment of taxes by co-owner or other interested party; lien.

Any owner of real estate whose interest is not subject to separate assessment, or any person having a lien on the land, or on an undivided interest therein, or any other person having an interest in the land, or in an undivided interest therein, which he desires to protect, shall be allowed to pay the whole, but not a part, of the taxes assessed thereon. Any co-owner of real estate whose interest is subject to separate assessment shall be allowed at his election to pay the taxes either on his own interest alone or in addition thereto upon the interest of any or all of his co-owners. If his own or any other interest less than the whole, on which he desires to pay the taxes, was included in a group assessment, he must before payment have the group assessment split and must secure from the assessor and present to the sheriff a certificate setting forth the changes made in the assessment. The sheriff shall make the necessary changes in his records, prepare new tax bills to conform thereto, and then deliver the certificate to the clerk of the county court, who shall note the changes on his records.

One who pays taxes on the interest of any other person shall be subrogated to the lien of the state upon such interest. He shall lose his right to the lien, however, unless within thirty days after payment he shall file with the clerk of the county court his claim in writing against the owner of such interest, together with the tax receipt or a duplicate thereof. The clerk shall docket the claim on the judgment lien docket in his office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

WV Legislature

§11A-1-10. Payment by owner of part of tract or lot assessed to another.

Any person owning a part of a tract or lot, the whole of which was assessed in the name of another, shall be allowed to pay the taxes on such part upon complying with the provisions of this section. He must before payment obtain from the clerk of the county court a certificate of the transfer of title to him which certificate shall contain such information concerning the transfer as is required for each transfer included in the certified list provided for in section eight, article four, chapter eleven of this code. On the basis of the information in this certificate, he must then have the assessment split and must secure from the assessor and present to the sheriff a certificate setting forth the changes made in the assessment. The sheriff shall make the necessary changes in his records, prepare new tax bills to conform thereto, and then deliver the certificate to the clerk of the county court who shall note the changes on his records.

WV Legislature

§11A-1-11. Payment by fiduciary.

When a tax is paid by a fiduciary on any property under his control, or on the income of such property, the tax shall be refunded out of the property or its income.

WV Legislature

§11A-1-12. Receipt for taxes.

(a) The sheriff or his or her deputy shall deliver to the person paying any taxes a written or printed, or if taxes are paid online, a digital receipt therefor, and shall retain for his or her records the stub or duplicate of such receipt. The receipt and the stub or duplicate shall specify the total value of personal property; the number of acres of land, and the number of town lots, with the valuation of each tract or lot separately charged; and shall separately show the distribution amount of the tax paid for state, school current, county current, municipal current, district current, and any other purpose if levied.

(b) The receipt shall show the name of the sheriff and the officer receiving payment. The receipt shall include their initials.

(c) The sheriff shall furnish to each taxpayer a statement showing the levies laid for each class of taxable property in each taxing district of the county when requested so to do by the taxpayer. The sheriff shall cause a statement of the levies, as aforesaid, to be posted at the front door of the courthouse and at two conspicuous places in his or her office, but failure to post such statement shall in no wise affect the rights of the state, or any of its agencies, to collect such taxes. The Tax Commissioner may prescribe uniform tax statements and receipts, not inconsistent herewith, for use in all counties of the state.

WV Legislature

§11A-1-13. Accounts to be kept by sheriff.

The sheriff shall keep separate accounts in a permanent book or in a permanent record on an electronic data processing system, in form prescribed by the Tax Commissioner, of all the taxes received and disbursed by him or her, for the different purposes for which the taxes were levied. Each of the accounts shall be kept so as to show the total receipts and disbursements up to the close of business on each day; and in a separate column opposite the totals the sheriff shall ascertain and note in figures, at the close of each day's transactions, the balance due from or to him or her, as the case may be, on account of the funds. The account book or a printout of the permanent record on the electronic data processing system is subject to inspection at any time by the Tax Commissioner, members of the county commission, the clerk of the county commission, the prosecuting attorney, the mayor or treasurer of any municipality or the treasurer of the county board of education. The Tax Commissioner shall promulgate rules in

accordance with article three, chapter twenty-nine-a of this code requiring that printouts of the permanent record on the electronic data processing system be made on a periodic basis and that those printouts be stored in a safe and secure manner, so that they are protected from fire damage.

WV Legislature

§11A-1-14. Payment by sheriff into State Treasury.

All taxes collected for the state shall be paid into the State Treasury by the sheriff as follows: On or before November fifteenth, all such taxes collected before November first; on or before April fifteenth, all collected before April first. Every sheriff who fails to make any payment when due shall be charged with interest at the rate of twelve per cent per annum.

WV Legislature

§11A-1-15. Payment by sheriff to municipal and county board of education treasuries.

Each month the sheriff shall pay all moneys collected for any municipal corporation and the county board of education into the respective treasuries of such municipal corporation and county board of education, payment to be made on or before the tenth day of each month of all moneys collected during the preceding month for such municipal corporation and the county board of education: Provided, That the sheriff shall not be required to make such monthly payments to the county board of education, if the county board has designated the sheriff as its treasurer pursuant to section six, article nine, chapter eighteen of this code. For the faithful performance of this duty, he shall execute a bond, to be approved by the municipal council or Board of Education, in the penalty to be fixed by the council or board, not to exceed the amount of municipal or school taxes which it is estimated he will collect within any period of two months. The premium on such bond shall be paid by the municipality or Board of Education. Every sheriff who fails to make any payment when due shall be charged with interest at the rate of twelve percent a year.

WV Legislature

§11A-1-16. Sheriff charged with all levies; final settlement.

The sheriff shall be charged each year with all taxes levied in his county. On or before August first of the following year, he shall make a final settlement with each taxing unit and account for all taxes assessed for the preceding year. In the settlement, he shall be credited with all such taxes collected and paid over by him to or on account of the taxing unit. He shall also be credited with all such taxes listed as delinquent as provided in the following article. The remainder of the taxes assessed for the preceding year shall be accounted for by him as if they had been collected before the delinquent lists were prepared.

WV Legislature

§11A-1-17. Sheriff's commission for collection.

(a) The Legislature finds that it has, since July 1, 1955, consistently and annually imposed upon the sheriffs, as treasurers in each county, new and additional duties by the enactment of new provisions and amendments to this code. The new and additional duties imposed upon the aforesaid sheriffs, as county treasurers, by these enactments are such that they would justify the increases in commission as provided in this section, without violating the provisions of section 38, article VI, of the Constitution of West Virginia.

(b) The Legislature further finds that there are, from time to time, additional duties imposed upon all county sheriffs, as county treasurers, through the acts of the Congress of the United States and that such acts constitute new and additional duties for county sheriffs/treasurer and, as such, justify the increases in commission as provided by subsection (c) of this article, without violating the provisions of section 38, article VI, of the Constitution of West Virginia.

(c) Beginning on and after July 1, 2026, the sheriff shall be entitled to a commission for the collection of taxes as authorized by law and provided in this subsection. The commission shall be based upon the percentage of the combined total of all taxes assessed on real and personal property taxes levied for the current fiscal year that are collected by the sheriff during the tax year as determined by the county commission, as follows:

(1) If the sheriff collects at least 85 percent but less than 90 percent of the total taxes levied, the sheriff shall receive a commission in the amount of $20,000;

(2) If the sheriff collects at least 90 percent but less than 95 percent of the total taxes levied, the sheriff shall receive a commission in the amount of $25,000; and

(3) If the sheriff collects 95 percent or more of the total taxes levied, the sheriff shall receive a commission in the amount of $30,000.

(d) The commission so allowed shall be charged against the various funds for which the taxes are collected and become a regular part of the budgeted and annual compensation of the sheriff and paid in accordance with provisions of §7-7-9 of this code.

WV Legislature

§11A-1-18. Exception.

Notwithstanding the provisions of sections two, three, six, eight and fourteen of this article, the provisions of this article as of January 1, 1961, shall govern the accrual and collection of taxes levied upon assessed values as of January 1, 1961, or prior years.

WV Legislature

§11A-2-1. Duty of sheriff to enforce payment of delinquent taxes.

Whenever any taxes become delinquent, it shall be the duty of the sheriff to take immediate steps to enforce payment by use of the methods prescribed in sections two, three and seven of this article.

WV Legislature

§11A-2-2. Collection by civil action; fees and costs not required of sheriff.

(a) Taxes are hereby declared to be debts owing by the taxpayer, for which he or she shall be personally liable. After delinquency, the sheriff may enforce this liability by appropriate action in any court of competent jurisdiction. No such action may be brought after five years from the time the action accrued.

(b) In any such action, the sheriff may prosecute the same without paying fees or costs, and without providing bond or security, as may otherwise be required of civil litigants by the provisions of this code, and shall have all services and process, including the services of witnesses, without paying therefor: Provided, That the sheriff shall maintain for each action for the recovery of delinquent taxes records sufficient to demonstrate the total fees and costs paid and that would have been paid but for the authority provided herein to seek recovery without such payment: Provided, however, That where the sheriff recovers delinquent taxes in or as the result of such action, whether by way of settlement or judgment, such fees and costs as above required to be recorded shall be recoverable from the opposite party and, upon receipt of any recovery, the sheriff shall pay from the amount recovered such fees or costs to the officer who otherwise would have been entitled thereto but for the provisions of this section: Provided further, That the fees and costs shall be paid prior to payment to the various taxing units of the balance of the recovered taxes: And provided further, That the payment to the various taxing units shall be prorated on the basis of the total amount of taxes due them.

(c) The county commission may hire an attorney to prosecute any such action for the collection of such delinquent taxes or to defend the county's interest in any proceeding before any United States Bankruptcy Court: Provided, That any attorney so hired shall be reimbursed for actual expenses directly incurred in the course of the representation: Provided, however, That in any engagement of any attorney so hired under this section, the county commission shall enter into a written representation agreement with the attorney so engaged, which written representation agreement shall include, in the case of an hourly fee agreement, a cumulative cap of any hourly fees charged on a per-case basis or, in the case of a contingency fee agreement, a percentage cap of any money or things of value recovered in the representation. Any attorney fees or other costs associated with the collection of taxes, not heretofore provided for in subsection (b) of this section, shall be paid from the taxes so collected prior to the distribution to the various taxing units.

WV Legislature

§11A-2-3. Distraint.

The sheriff may, as soon as taxes become delinquent, distrain any goods or chattels in the county belonging to the person or to the estate in land assessed with the taxes. If such goods or chattels are about to be removed from the county, the sheriff may distrain even before delinquency. Whenever rent payable by a tenant is a share of the crop, such share only, whether severed or not, shall be liable to distress for taxes assessed against the landlord.

WV Legislature

§11A-2-4. Abatement of distress.

Whenever by mistake taxes are assessed wholly to one person or estate on a tract or lot of land, part of which has become the freehold of another, by a title recorded before July first of the assessment year, the goods and chattels of the party or estate so assessed shall not be liable to distraint for more than a due proportion of such taxes.

WV Legislature

§11A-2-5. Distraint of encumbered property.

No trust deed, mortgage or sale of goods and chattels shall prevent their being distrained for all taxes assessed against the grantor or former owner thereof, while such goods and chattels remain in his possession; nor shall such deed, mortgage or sale prevent their being distrained for taxes assessed on such goods and chattels, no matter in whose possession they may be found.

WV Legislature

§11A-2-6. Distraint where land lies in more than one county.

Where taxes are assessed on land lying partly in one county and partly in another, the sheriff of the county in which the taxes are so assessed may distrain goods or chattels on that part of the land lying in the other county.

WV Legislature

§11A-2-7. Summary procedure for collection out of money due from or property held by another.

Whenever there is any person who is now indebted to, or who, as tenant, lessee or otherwise, will for any rent, issue, delay rentals, gas well rentals, or royalties of any kind, in the future become indebted to, or who has in his possession property belonging to, any delinquent taxpayer, the sheriff may make written application to such person demanding payment of the taxes out of such money as is now or may become due, or out of the property. No person so applied to shall make any payment or deliver any of the property to the delinquent taxpayer until the taxes are paid. From the time of the making of such application the taxes shall constitute a lien on any such money now or to become due from the person applied to and on such property held by him The sheriff shall endorse upon the application the time and the place application was made and shall file it for record with the clerk of the county court.

Upon the failure of any person to comply with the application, the sheriff may serve such person with a notice in writing to appear and answer for his failure before a court of competent jurisdiction. The notice shall designate the court before which he is to appear, and shall state the time for such appearance, which time shall not be less than ten days after service of the notice, the name of the delinquent taxpayer and the amount of the delinquency.

The sheriff shall endorse the time and place of service on the original of such notice, and shall file it with the court designated therein. If the person served does not appear, judgment shall be entered against him in favor of the sheriff for the amount of taxes due, with costs of the proceeding. If he does appear, the court, upon proof that he was a person to whom application might properly be made, shall render judgment against him for the amount of taxes due, with costs of the proceeding, which judgment shall be payable only out of the money which is now or is to become due to the delinquent taxpayer or out of property held for him Appeals and writs of error shall lie as in other cases.

Payment of the taxes, in whole or in part, by the person applied to, whether made upon application only or made toward satisfaction of a judgment against him shall entitle him to a credit on any obligation he may owe the delinquent taxpayer, or to a charge against any property held for the taxpayer, and to a first lien on any such property, for the amount paid, unless he was by an express contract bound to pay the taxes.

WV Legislature

§11A-2-8. Remedies against vendee in possession without deed.

Any purchaser in possession of land, whether or not he has obtained a deed therefor, shall be personally liable for the taxes assessed against the land after he obtained possession, unless the vendor has expressly contracted to pay the taxes himself The sheriff may collect from the purchaser by any of the methods provided for in this article.

WV Legislature

§11A-2-9. Remedies of sheriff paying over taxes not collected.

If the sheriff has paid into the treasury of the state, or of any county or municipality, taxes due from any person before they were collected by him he may in order to reimburse himself collect from such person by any of the methods provided for in this article, but he shall not be subrogated to the state's lien for such taxes.

WV Legislature

§11A-2-10. Sale of tax liens on real estate.

In addition to the methods for the collection of taxes provided for in this article, tax liens on real estate may be sold for the taxes assessed thereon in the manner prescribed in article three of this chapter.

WV Legislature

§11A-2-10a. Notice of delinquency.

On or after April first of each year, the sheriff may prepare and publish a notice stating in effect that the taxes assessed for the previous year have become delinquent, and that unless paid by April thirtieth will be included for publication in the forthcoming delinquent lists, which notice, if published, shall be published as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county.

WV Legislature

§11A-2-11. Delinquent lists; oath.

The sheriff, after ascertaining which of the taxes assessed in his or her county are delinquent, shall, on or before May 1 next succeeding the year for which the taxes were assessed, prepare the following delinquent lists, arranged by districts and alphabetically by name of the person charged, and showing in respect to each the amount of taxes remaining delinquent on April thirtieth: (1) A list of property in the landbook improperly entered or not ascertainable; (2) a list of other delinquent real estate; and (3) a list of all other delinquent taxes: Provided, That the list shall conclude with a notice, substantially as follows: "Any person holding a West Virginia business registration certificate under the authority of article twelve, chapter eleven of this code who does not pay all delinquent personal property taxes shall have his or her license to do business in this state suspended until the delinquency is cured."

The sheriff on returning each list shall, at the foot thereof, subscribe an oath, which shall be subscribed before and certified by some person duly authorized to administer oaths, in form or effect as follows:

I, ..., sheriff (or deputy sheriff or collector) of the County of ....., do swear that the foregoing list is, to the best of my knowledge and belief, complete and accurate, and that I have received none of the taxes listed therein.

Except for the oath, the Auditor shall prescribe the form of the delinquent lists.

WV Legislature

§11A-2-12. Penalty for inclusion of taxes paid in delinquent lists.

If a sheriff shall include in one of the delinquent lists any taxes which have been collected by him he shall forfeit to the person named in the list, if the return was by design, ten times the amount of the taxes so collected, or if the return was by mistake, twice the amount.

WV Legislature

§11A-2-13. Publication and posting of delinquent tax lists.

A copy of each of the delinquent lists shall be posted at the front door of the courthouse of the county at least two weeks before the session of the county commission at which they are to be presented for examination. At the same time a copy of each list shall be published as a Class I-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. Only the aggregate amount of the taxes owed by each person need be published. To cover the costs of preparing, publishing and posting the delinquent lists, a charge of $20 shall be added to the taxes and interest already due on each item listed.

Any person whose taxes were delinquent on May first may have his name removed from the delinquent lists prior to the time the same is delivered to the newspapers for publication by paying to the sheriff the full amount of the taxes and costs owed by such person at the date of such redemption. The sheriff shall collect a charge of only $3 if redemption is made before the list is delivered for publication. Costs collected by the sheriff hereunder which are not expended for publication shall be paid into the general county fund.

WV Legislature

§11A-2-14. Correction of delinquent lists by county commission; certification to Auditor; recordation.

The sheriff shall on or before May 15 of each year present the delinquent lists to the county commission for examination. The county commission having become satisfied that the lists are correct, or having corrected them if erroneous, shall direct the clerk of the county commission to certify a copy of each list, pertaining to real property, to the Auditor not later than June 1 of each year. The original lists shall be preserved by the clerk in his or her office, and the list of delinquent real estate shall be recorded in a permanent book to be kept by him or her for that purpose.

WV Legislature

§11A-2-15. Examination of lists by Auditor; credit to sheriff.

It shall be the duty of the Auditor to examine each list pertaining to real property, and if he has reason to believe that it is erroneous, he shall return it to the county court for correction, stating his reasons why it should be corrected as to any person or subject listed therein. The Auditor shall credit the sheriff with all state taxes mentioned in each list.

WV Legislature

§11A-2-16. Effect of irregularity as to delinquent lists on later tax enforcement procedure.

No irregularity, error or mistake in respect to anything required by this article to be done concerning the delinquent lists shall invalidate any tax title based upon later tax enforcement procedure. Nor shall any person be allowed to enjoin or otherwise question the validity of any subsequent step in the tax enforcement procedure by reason of such irregularity, error or mistake, unless he shows that he was actually prejudiced thereby.

WV Legislature

§11A-2-17. Presumption of payment based on omission from delinquent lists.

Whenever a tax is charged to any person or assessed against any property and the name of the person charged or the property assessed does not appear in the proper delinquent list, it shall be presumed, in the absence of evidence to the contrary, that the tax so charged or assessed was paid before the time when such list was required to be made.

WV Legislature

§11A-2-18. Redemption before sale; record; lien.

[Repealed.]

WV Legislature

§11A-2-19. Exception.

Notwithstanding the provisions of sections four, ten-a, eleven, thirteen and fourteen of this article, the provisions of this article as of January 1, 1961, shall govern delinquency and methods of enforcing payment of taxes levied upon assessed values as of January 1, 1961, or prior years.

WV Legislature

§11A-3-1. Declaration of legislative purpose and policy.

In view of the paramount necessity of providing regular tax income for the state, county, and municipal governments, particularly for school purposes; and in view of the further fact that delinquent land not only constitutes a public liability, but also represents a failure on the part of delinquent private owners to bear a fair share of the costs of government; and in view of the rights of owners of real property to adequate notice and an opportunity for redemption before they are divested of their interests in real property for failure to pay taxes or have their property entered on the land books; and in view of the fact that the circuit court suits heretofore provided prior to deputy commissioners' sales are unnecessary and a burden on the judiciary of the state; and in view of the necessity to continue the mechanism for the disposition of escheated and waste and unappropriated lands; now therefore, the Legislature declares that its purposes in the enactment of this article are as follows: (1) To provide for the speedy and expeditious enforcement of the tax claims of the state and its subdivisions; (2) to provide for the transfer of delinquent and non-entered lands to those that will make beneficial use of said lands who are more responsible to, or better able to bear, the duties of citizenship than were the former owners; (3) to secure adequate notice to owners of delinquent and nonentered property of the pending issuance of a tax deed; (4) to permit deputy commissioners of delinquent and nonentered lands to sell such lands without the necessity of proceedings in the circuit courts; (5) to reduce the expense and burden on the state and its subdivisions of tax sales so that such sales may be conducted in an efficient manner while respecting the due process rights of owners of real property; and (6) to provide for the disposition of escheated and waste and unappropriated lands.

WV Legislature

§11A-3-2. Second publication of list of delinquent real estate; notice.

(a) On or before the September 10 of each year, the sheriff shall prepare a second list of delinquent lands, which shall include all real estate in his or her county remaining delinquent as of the first day of September, together with a notice of sale, in form or effect as follows:

Notice is hereby given that the following described tracts or lots of land or undivided interests therein in the County of_____ and the tax liens that encumber the same which are delinquent for the nonpayment of taxes for the year (or years) 20_____, will be certified to the Auditor for disposition pursuant to West Virginia Code §11A-3-44 on the 31st day of October, 20_____.

Upon certification to the Auditor, tax liens on each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein, shall be sold at public auction to the highest bidder in an amount which shall not be less than the taxes, interest, and charges which shall be due thereon to the date of sale, as set forth in the following table:

Name of Person Charged With Taxes	Quantity Of Land	Local Description	Total Amount of Taxes, Intrest, and Charges Due to Date of Sale

If any of said tracts or lots remain unsold following the auction, they shall be subject to sale by the Auditor without additional advertising or public auction, such terms as the Auditor deems appropriate pursuant to §11A-3-48 of this code.

Any of the aforesaid tracts or lots, or part thereof or an undivided interest therein, may be redeemed by the payment to the undersigned sheriff (or collector) before certification to the Auditor, of the total amount of taxes, interest, and charges due thereon up to the date of redemption by credit card, cashier’s check, money order, certified check, or United States currency. Payment must be received in the tax office by the close of business on the last business day prior to the certification.

After certification to the Auditor, any of the aforesaid tracts or lots may be redeemed by any person entitled to pay the taxes thereon, the owner of the same whose interest is not subject to separate assessment, or any person having a lien on the same, or on an undivided interest therein, at any time prior to the sale by payment to the Auditor of the total amount of taxes, interest, and charges due thereon up to the date of redemption.

Given under my hand this _____day of

_____, 20_____.

_____

WV Legislature

Sheriff (or collector).

The sheriff shall publish the list and notice prior to the sale date fixed in the notice as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for such publication shall be the county.

(b) In addition to such publication, no less than 30 days prior to the sale by the Auditor pursuant to §11A-3-44 of this code, the sheriff shall send a notice of the delinquency and the date of sale by certified mail: (1) To the last known address of each person listed in the land books whose taxes are delinquent; (2) to each person having a lien on real property upon which the taxes are due as disclosed by a statement filed with the sheriff pursuant to the provisions of §11A-3-3 of this code; (3) to each other person with an interest in the property or with a fiduciary relationship to a person with an interest in the property who has in writing delivered to the sheriff on a form prescribed by the Tax Commissioner a request for such notice of delinquency; and (4) in the case of property which includes a mineral interest but does not include an interest in the surface other than an interest for the purpose of developing the minerals, to each person who has in writing delivered to the sheriff, on a form prescribed by the Tax Commissioner, a request for such notice which identifies the person as an owner of an interest in the surface of real property that is included in the boundaries of such property: *Provided*, That in a case where one owner owns more than one parcel of real property upon which taxes are delinquent, the sheriff may, at his or her option, mail separate notices to the owner and each lienholder for each parcel or may prepare and mail to the owner and each lienholder a single notice which pertains to all such delinquent parcels. If the sheriff elects to mail only one notice, that notice shall set forth a legally sufficient description of all parcels of property on which taxes are delinquent. In no event shall failure to receive the mailed notice by the landowner or lienholder affect the validity of the title of the property conveyed if it is conveyed pursuant to §11A-3-27 or §11A-3-59 of this code.

(c) To cover the cost of preparing and publishing the second delinquent list, a charge of $25 shall be added to the taxes, interest, and charges already due on each item and all such charges shall be stated in the list as a part of the total amount due.

(d) To cover the cost of preparing and mailing notice to the landowner, lienholder, or any other person entitled thereto pursuant to this section, a charge of $10 per addressee shall be added to the taxes, interest, and charges already due on each item and all such charges shall be stated in the list as a part of the total amount due.

(e) Any person whose taxes were delinquent on the first day of September may have his or her name removed from the delinquent list prior to the time the same is delivered to the newspapers for publication by paying to the sheriff the full amount of taxes and costs owed by the person at the date of such redemption. In such case, the sheriff shall include but $3 of the costs provided in this section in making such redemption. Costs collected by the sheriff under this section which are not expended for publication and mailing shall be paid into the General County Fund.

WV Legislature

§11A-3-3. Waiver of notice by person claiming lien.

(a) Any person claiming a lien against real property shall be deemed to have waived the right to notice provided by section two of this article unless he shall have filed a statement declaring such interest with the sheriff. Such statement shall be filed upon creation of the lien and upon release of said lien and upon any change of the lienholder's postal address since the original filing of such statement.

Such statement shall be sufficient if it is filed at the time the document creating the lien is filed and when said lien is released on a form and in a manner to be prescribed from time to time by the Tax Commissioner, which form shall include the name of the person charged with taxes for the real property; the tax map and parcel number of the property; the assessor's account number of the property; a description of the interest claimed; and the address to which notice is to be sent: Provided, That it shall be sufficient for purposes of this section if the information required by this section is provided on a sales listing form prescribed in section six, article twenty-two, chapter eleven of this code and filed with the clerk of the county commission at the time of the filing of the document. The statement may be amended at any time by the person claiming the lien, upon such amended form and in such manner as may be prescribed by the Tax Commissioner: Provided, however, That in counties with a population greater than two hundred thousand any person claiming liens against more than fifty parcels of real estate may file such statement electronically in a similar format as before described designed by the Tax Commissioner.

(b) At least once a year prior to July 1, the sheriff shall publish a notice that any person claiming a lien against taxable real property must file the statement required by this section or such person will be deemed to have waived any right to notice provided by the preceding section. The notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county in which such land is located.

WV Legislature

§11A-3-4. Redemption after second publication and before certification to the Auditor.

Any of the real estate included in the list published pursuant to the provisions of §11A-3-2 of this code may be redeemed at any time before certification to the Auditor as provided in §11A-3-8 of this code, by cashier check, money order, certified check, or United States currency.

WV Legislature

§11A-3-5. Sale by sheriff; immunity; penalty; mandamus.

[Repealed.]

WV Legislature

§11A-3-5a. Effective date of transfer of duties for delinquent land sales by sheriff from the county clerk to the State Auditor.

[Repealed.]

WV Legislature

§11A-3-5b. Authorization for county clerk to perform duties for delinquent land sales by sheriff.

[Repealed.]

WV Legislature

§11A-3-6. Purchase by sheriff, State Auditor, deputy commissioner and clerk of county commission prohibited; co-owner free to purchase at tax sale.

[Repealed.]

WV Legislature

§11A-3-7. Suspension from same; amended delinquent lists; subsequent sale.

[Repealed.]

WV Legislature

§11A-3-8. Certification of property to the Auditor.

If any real estate included in the list published pursuant to the provisions of §11A-3-2 of this code is not redeemed in accordance with §11A-3-4 of this code by October 31 of the year the list was published, the sheriff shall certify the real estate except the sheriff shall include any subsequent taxes due at the time of the list published pursuant to §11A-3-2 of this code to the Auditor for disposition pursuant to §11A-3-44 of this code, subject, however, to the right of redemption provided by §11A-3-38 of this code. The Auditor shall prescribe the form by which the sheriff certifies the property.

WV Legislature

§11A-3-9. Sheriff's list of redemptions and certifications; oath.

(a) As soon as the certification provided in §11A-3-8 of this code has been completed, the sheriff shall prepare a list of all tax liens on delinquent real estate redeemed before certification or certified to the Auditor. The heading of the list shall be in form or effect as follows:

List of tax liens on real estate in the county of _____, returned delinquent for nonpayment of taxes thereon for the year (or years) 20___, and redeemed before certification or certified to the Auditor.

(b) The sheriff shall, at the foot of the list, subscribe an oath, which shall be subscribed before and certified by some person duly authorized to administer oaths, in form or effect as follows:

I, _____, sheriff (or deputy sheriff or collector) of the county of _____, do swear that the above list contains a true account of all the tax liens on real estate within my county returned delinquent for nonpayment of taxes thereon for the year (or years) 20___, which were redeemed before certification or certified to the Auditor.

(c) Except for the heading and the oath, the Auditor shall prescribe the form of the list.

WV Legislature

§11A-3-10. Sheriff to account for proceeds; disposition of surplus.

(a) The sheriff shall account for the proceeds of all redemptions included in such list in the same way he or she accounts for other taxes collected by him or her.

(b) All real estate included in the first delinquent list sent to the Auditor, and not accounted for in the list of redemptions and certifications, shall be deemed to have been redeemed before certification, and the taxes, interest, and charges due thereon shall be accounted for by the sheriff as if they had been received by him or her before the sale.

WV Legislature

§11A-3-11. Return of list certifications; redemptions.

(a) Within one month after completion of the certification, the sheriff shall deliver the original list of redemptions and certifications described in §11A-3-9 of this code, with a copy thereof, to the clerk of the county commission. The clerk shall bind the original of such list in a permanent book to be kept for the purpose in his or her office. The clerk, within 10 days after delivery of the list to him or her, shall transmit the copy to the Auditor, who shall note each redemption, and certification on the record of delinquent lands kept in his or her office.

(b) Any sheriff who fails to prepare and return the list of redemptions and certifications within the time required by this section shall forfeit not less than $50 nor more than $500, for the benefit of the general school fund, to be recovered by the Auditor or by any taxpayer of the county on motion in a court of competent jurisdiction. Upon the petition of any person interested, the sheriff may be compelled by mandamus to make out and return the list and the proceedings thereon shall be at his or her cost.

WV Legislature

§11A-3-12. Amendment of such list.

If the sheriff shall make any error or omission in the list of redemptions and certifications returned to the clerk of the county commission, he or she or any person interested may, within 30 days after the publication of such list, apply by petition to the county commission for an order permitting or requiring amendment of the list. Any person who may be prejudiced by the proposed amendment must, if found within the county, be given at least 10 days' notice of such application. Upon proof of the error or mistake the commission shall make an order permitting or requiring the sheriff to file an amended list with the clerk of the commission. The sheriff shall thereupon prepare and deliver to the clerk of the commission the amended list and a copy thereof, with a copy of the order of the commission permitting or requiring it to be filed attached to the list and to the copy. The clerk shall substitute the original of the amended list for the list already in his or her office, and make the necessary corrections on his record of delinquent lands. The clerk shall transmit the copy of the amended list to the Auditor who shall note the corrections on his or her record of delinquent lands.

WV Legislature

§11A-3-13. Publication by sheriff of certification list.

Within one month after completion of the certification, the sheriff shall prepare and publish a list of all the certifications made by him or her, in form or effect as follows, which list shall be published as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for such publication shall be the county.

List of tax liens on real estate in the county of _____, in the month (or months) of _____, 20_____, certified for nonpayment of taxes thereon for the year (or years) 20_____, and certified to the Auditor of the State of West Virginia:

Name of person charged with taxes	Local description of lands	Quantity of land charged

The owner of any real estate listed above, or any other person entitled to pay the taxes thereon whose interest is not subject to separate assessment, or any person having a lien on such real estate, or on an undivided interest therein may, however, redeem such real estate as provided by law.

Given under my hand this _____ day of _____, 20___.

_____

Sheriff

To cover the costs of preparing and publishing such list, a charge of $15 shall be added to the taxes, interest, and charges already due on each item listed.

WV Legislature

§11A-3-14. Purchase by individual at tax sale; certificate of sale.

[Repealed.]

WV Legislature

§11A-3-15. Certificate of sale assignable.

[Repealed.]

WV Legislature

§11A-3-16. Subsequent tax payments by purchaser.

[Repealed.]

WV Legislature

§11A-3-17. Sale of subsequent tax liens.

[Repealed.]

WV Legislature

§11A-3-18. Limitations on tax liens.

[Repealed.]

WV Legislature

§11A-3-19. What purchaser must do before the deed can be secured.

[Repealed.]

WV Legislature

§11A-3-20. Refund to purchaser of payment made at sheriff's sale where property is subject of an erroneous assessment or is otherwise nonexistent.

[Repealed.]

WV Legislature

§11A-3-21. Notice to redeem.

[Repealed.]

WV Legislature

§11A-3-22. Service of notice.

[Repealed.]

WV Legislature

§11A-3-23. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.

[Repealed.]

WV Legislature

§11A-3-24. Notice of redemption from purchases; moneys received by sheriff.

[Repealed.]

WV Legislature

§11A-3-25. Distribution of surplus to purchaser.

[Repealed.]

WV Legislature

§11A-3-26. Certificate of redemption issued by State Auditor; recordation; disposition of redemption money.

[Repealed.]

WV Legislature

§11A-3-27. Deed to purchaser; record.

[Repealed.]

WV Legislature

§11A-3-28. Compelling service of notice or execution of deed.

[Repealed.]

WV Legislature

§11A-3-29. One deed for adjoining pieces of real estate within the same tax district.

[Repealed.]

WV Legislature

§11A-3-30. Title acquired by individual purchaser; action to quiet title

[Repealed]

WV Legislature

§11A-3-31. Effect of irregularity on title acquired by purchaser.

[Repealed]

WV Legislature

§11A-3-32. Sheriff to keep proceeds in separate accounts; disposition.

(a) The sheriff shall keep in a separate fund the proceeds of all redemptions paid to him or her under the provisions of this chapter, except for those proceeds for which a separate fund is directed by the provisions of §11A-3-64 of this code. Out of the total proceeds of each redemption he or she shall in the order of priority stated below credit the following amounts for payment as provided in this section:

(1) To the general county fund, the part that represents costs paid out of the fund for publishing the sheriff's delinquent and sales list and all other costs incurred by the sheriff pursuant to the provisions of this article;

((2) The balance, if any, of the proceeds of the lands included in each suit shall be prorated among the various taxing units on the basis of the total amount of taxes due them in respect to the lands that were redeemed.

(b) The amounts so determined shall be credited as follows for payment as provided in this subsection:

(1) To the Auditor, the part that represents state taxes and interest; and

(2) To the fund kept by the sheriff for each local taxing unit, the part that represents taxes and interest payable to the unit.

(c) All amounts which under the provisions of this section were credited by the sheriff to the Auditor shall be paid to him or her semiannually, and those credited to the various local taxing units shall be transferred semiannually by the sheriff to the fund kept by him or her for each taxing unit.

(d) The Auditor shall prescribe the form of the records to be kept by the sheriff for the purposes of this section, and the method to be used by him or her in making the necessary pro rata distributions.

WV Legislature

PART II.

§11A-3-33. State commissioner of delinquent and nonentered lands.

The State Auditor shall ex officio be state commissioner of delinquent and nonentered lands. The term "Auditor" whenever used in this chapter in connection with delinquent, nonentered, escheated or waste and unappropriated lands, shall be construed to refer to the Auditor in his capacity as state commissioner of delinquent and nonentered lands.

The Auditor is empowered, and it shall be his duty, through the land department in his office, to administer and carry into execution the laws with reference to such lands. The Auditor on behalf of the state shall have power to hold and manage such lands, and to exercise all other powers incident to the powers and duties conferred upon him by this article.

WV Legislature

§11A-3-34. Deputy commissioners of delinquent and nonentered lands; bond.

(a) The Auditor shall appoint for each county in the state a deputy commissioner of delinquent and nonentered lands. The Auditor shall make new appointments, from time to time thereafter, whenever vacancies occur or when, in the Auditor's judgment, it is advisable. The Auditor may promulgate rules respecting the tenure of deputy commissioners. In the absence of rules, the deputy commissioner for each county shall, so long as he or she satisfies the requirements of this section in respect to professional qualifications and bonding, continue to act without reappointment until the Auditor designates his or her successor.

(b) The Auditor shall appoint deputy commissioners in such numbers and to serve such counties as the Auditor considers advisable to effect the purposes of this article. Appointments, other than an employee of the Auditor's office, shall be limited to persons duly licensed to practice law in this state. Except for an employee of the Auditor's office, any person appointed as deputy commissioner for a single county shall reside in that county. Any person appointed as deputy commissioner for more than one county shall reside in one of the counties for which he or she has been appointed.

(c) Whenever in respect to any land the deputy commissioner, in his or her own judgment or in the opinion of the Auditor, is disqualified or otherwise unable to serve because of his or her personal interest, because of his or her representation of clients in matters affecting the land, because of vacancies or failure to act, or whenever the Auditor considers it in the best interest of the state, the Auditor may appoint an employee of his or her office to serve as a deputy commissioner relating to the land. When a deputy commissioner is an employee of the Auditor, all compensation and commissions that would otherwise be paid to a deputy commissioner shall be credited by the sheriff to the Auditor for deposit into the operating fund created pursuant to section thirty-six of this article.

(d) The deputy commissioner is subject to the orders and control of the Auditor, is accountable to him or her and serves as the Auditor's local agent in the county. The deputy commissioner shall do whatever is required by the Auditor or by the provisions of this article. The deputy commissioner, before entering upon his or her duties, shall give a bond, with satisfactory corporate surety, conditioned upon the faithful performance of his or her duties and the payment of any forfeitures incurred. The penalty of the bond shall be at least $25,000 and not more than $100,000, as the Auditor may direct. The premium for the bond shall be paid by the Auditor out of the operating fund for the land department in his or her office.

WV Legislature

§11A-3-35. Land record in Auditor's office.

The Auditor shall prepare and keep in his office a permanent record of all delinquent, nonentered, escheated and waste and unappropriated lands. The record shall as to every tract or lot listed set forth the information available as to quantity, local description, and, except in the case of waste and unappropriated lands, the name of the former owner and the respective dates of nonentry, or delinquency and certification to the Auditor, or escheat, as the case may be. The record shall be prima facie evidence of all matters required by this section to be set forth therein, including the correctness of the description of lands as nonentered, delinquent, escheated or waste and unappropriated.

WV Legislature

§11A-3-36. Operating fund for land department in Auditor's office.

(a) The Auditor shall establish a special operating fund for the land department in his or her office. He or she shall pay into such fund all redemption fees, all publication or other charges collected by him or her if such charges were paid by or were payable to him or her the unclaimed surplus proceeds received by him or her from the sale of delinquent and other lands pursuant to this article, and all payments made to him or her under the provisions of §11A-3-64 and §11A-3-65 of this code, except such part thereof as represents state taxes and interest. All payments so excepted shall be credited by the Auditor to the general school fund or other proper state fund.

(b) The operating fund shall be used by the Auditor in cases of deficits in land sales to pay any balances due to deputy commissioners for services rendered, and any unpaid costs including those for publication which have accrued or will accrue under the provisions of this article, to pay fees due surveyors under the provisions of §11A-3-43 of this code, and to pay for the operation and maintenance of the land department in his or her office. If, at the end of any fiscal year, the balance in the special operating fund exceeds 20 percent of the gross revenues from the special operating fund operations, the excess shall be transferred to the General School Fund.

WV Legislature

§11A-3-36a. Credit card approved form of payment in land department of Auditor's office.

(a) The Auditor shall use the State Treasurer's contracts and system for receiving payment by credit card for all redemption fees, publication fees, delinquent taxes or other charges collected by the Auditor in connection with the operations of the land department. The person using the credit card as a form of payment is responsible for any charges assessed by the credit company. Acceptance of a credit card shall be in accordance with the rules and requirements set forth by credit card provided.

(b) For the purposes of this section, the term "credit card" means a credit card, debit card or charge card.

WV Legislature

§11A-3-37. Disposition of nonentered lands.

It is the duty of the owner of land to have his land entered for taxation on the landbooks of the appropriate county, have himself charged with the taxes due thereon, and pay the same. Land which, for any five successive years, shall not have been so entered and charged shall, without any proceedings therefor, be subject to the authority and control of the Auditor and such nonentered lands shall thereafter be subject to transfer or sale under the provisions of this article relating to the Auditor's disposition of lands certified to the Auditor pursuant to section eight thereof.

WV Legislature

§11A-3-38. Redemption of nonentered or certified lands.

(a) The owner of any real estate certified to the Auditor pursuant to §11A-3-8 of this code whose interest is not subject to separate assessment, or any person having a lien on such real estate, or on an undivided interest therein, or the owner of any nonentered real estate subject to the authority of the Auditor pursuant to §11A-3-37 of this code, or any other person who was entitled to pay the taxes thereon may redeem such real estate from the Auditor at any time prior to the certification of such real estate to the deputy commissioner as provided in §11A-3-44 of this code. Thereafter such real estate shall be subject to disposition pursuant to §11A-3-44 of this code, and subsequent sections.

(b) In order to redeem the person seeking redemption must pay to the Auditor such of the following amounts as may be due: (1) The taxes, interest and charges due on the real estate on the date of certification to the Auditor or the discovery of the nonentry, with interest at the rate of 12 percent per annum from the date of such certification or discovery; (2) all taxes assessed thereon for the year in which the certification occurred or nonentry was discovered, with interest at the rate of 12 percent per annum from the date on which they became delinquent, except when such taxes are currently due and payable to the sheriff; (3) all taxes except those for the current year which would have been assessed thereon since the certification had the certification not occurred, or which, in case of nonentered lands, would have been assessed thereon had the land been properly entered, with interest at the rate of 12 percent per annum from the date on which such taxes would have become delinquent: *Provided*, That in the case of nonentered lands, the owner shall not be liable for more than the taxes and interest which would have become due and payable during the 10 years immediately preceding the date of the discovery of the nonentry.

(c) In computing the amount due under subdivision (3), subsection (b) of this section on real estate certified to the Auditor by the sheriff, the Auditor shall use as the basis for computation the classification and valuation placed thereon by the assessor for each year since the sale. If such valuation and classification have not been made, he or she shall use the last valuation and classification appearing on the property books. In computing the amount due under subdivision (3), subsection (b) of this section on nonentered real estate, the Auditor shall use as the basis for computation such classification and valuation as may, at the request of the Auditor or the person redeeming, be certified to the Auditor by the assessor as the classification and valuation which in his opinion would be proper for each year of nonentry.

(d) Redemption of an undivided interest included in a group assessment shall not be permitted until the applicable provisions of §11A-1-9 or §11A-1-10 of this code have been complied with, except that instead of presenting the assessor’s certificate to the sheriff as therein provided, the person redeeming shall present it to the Auditor, who, after making the necessary changes in the land book, and in the record of delinquent lands kept in his or her office, shall compute the taxes due on the part or interest redeemed.

WV Legislature

§11A-3-39. Certificate of redemption issued by Auditor; recordation.

(a) Upon payment of the sum necessary to redeem, the Auditor shall execute a certificate of redemption in triplicate, which certificate shall specify the real estate redeemed, or the interest therein, as the case may be, together with any changes in respect thereto which were made in the land book and in the record of delinquent lands, shall specify the year or years for which payment was made, and shall state that it is a receipt for the money paid and a release of the state's lien against the real estate redeemed. The original certificate shall be retained in the files in the Auditor's office, one copy shall be delivered to the person redeeming and the second copy shall be mailed by the Auditor to the clerk of the county commission of the county in which the real estate is situated, who, after making any necessary changes in his or her record of delinquent lands, shall note the fact of redemption on such record, and shall record the certificate in a separate volume provided for the purpose.

The fee for issuing the certificate of redemption shall be $20 and seven and one-half percent of the total taxes and interest not to exceed $120.

(b) All certificates of redemption issued by the Auditor in each year shall be numbered consecutively and shall be filed by the clerk of the county commission in numerical order. Reference to the year and number of the certificate shall be included in the notation of redemption required of the clerk of the county commission. No fee shall be charged by the clerk for any recordation, filing, or notation required by this section. Ten dollars of the commission fee received by the Auditor on a redemption shall be deposited into the Courthouse Facilities Improvement Fund set out in §29-26-6 of this code.

WV Legislature

§11A-3-40. Compulsory redemption at election of Auditor.

The Auditor, if he so elects, may at any time compel redemption of any nonentered lands or real estate certified to the Auditor by the sheriff. In order to collect from the owner of such real estate an amount sufficient for redemption, he may use any of the methods provided in article two of this chapter for collection of taxes by the sheriff.

WV Legislature

§11A-3-41. Auditor to report redemptions to county officers; disposition of redemption money; credit of state taxes to proper fund.

(a) The Auditor shall report monthly to the sheriff, the assessor and the clerk of the county commission of each county all land in such county which was redeemed in his office during the preceding month. The assessor shall enter the fact of such redemption in the land book in his office. The clerk shall file and index the report in a separate volume provided for the purpose.

(b) Between August fifteenth and August thirty-first of each year, the Auditor shall report to the sheriff of each county for inclusion in his next September delinquent list all tracts of land redeemed from the Auditor, which after certification to the Auditor have been reported to him by the sheriff as suspended from sale, if the taxes for the year or years of suspension were not collected by the Auditor. The sheriff shall be charged with such taxes and shall account for them as is required in the case of current taxes. Instead of making this report, the Auditor may collect the taxes due for the year or years of suspension. Upon collection thereof he shall issue a second certificate of redemption, and such certificate shall be a release of the state's lien for such taxes.

(c) The Auditor shall each month draw his warrant upon the treasury, payable to the sheriff of each county, for that part of the taxes, interest and charges received by him upon the redemption of the property included in his report, which was owing to any of the taxing units in such county. The sheriff shall account for and pay over such money as if it had been paid to him for redemption before sale.

Upon collection of delinquent taxes due the state, the Auditor shall credit them to the proper fund.

WV Legislature

§11A-3-42. Lands subject to sale by Auditor.

All lands which were certified to the Auditor pursuant to §11A-3-8 of this code and which have not been redeemed, , together with all non-entered lands, all escheated lands, and all waste and unappropriated lands, shall be subject to sale by the Auditor as further provided in this article. References in this chapter to the sale or purchase of certified or non-entered lands by or from the Auditor shall be construed as the sale or purchase of the tax lien or liens thereon.

WV Legislature

§11A-3-43. Officers to report lands subject to sale.

(a) Whenever an assessor, sheriff, clerk of the county commission or county surveyor learns of the existence within the county of any nonentered land, he shall promptly report that fact to the Auditor, together with his information relating thereto. The assessor, as escheator, shall likewise report all lands which escheat to the state.

(b) Whenever the deputy commissioner learns of the existence of any waste and unappropriated lands within his county, except lands lying under the bed of a navigable stream, he shall direct the county surveyor, or some other competent surveyor, to make a survey, plat and report thereof, listing all discovered claims of title thereto. For his services in making the survey, plat and report, the surveyor shall be entitled to a fee of $50, and such additional compensation as the deputy commissioner may recommend and the Auditor approve, to be paid out of the operating fund for the land department in the Auditor's office.

WV Legislature

§11A-3-44. Auditor to certify list of lands to be sold; lands so certified are subject to sale.

On or after March 1and on or before August 1 of each year, the Auditor shall certify a list of all lands subject to sale under this article. He or she shall note the fact of certification on the land record in his or her office. Upon completion of the list for certification, a charge of $25 shall be added to the taxes, interest, and charges already due on each tract listed, to cover the costs incurred by the Auditor in the preparation of the list, and in the event of sale or redemption, the same shall be collected and paid into the operating fund provided for in this article.

Escheated lands and waste and unappropriated lands shall be listed separately. The list shall be arranged by districts and, except in the case of waste and unappropriated lands, alphabetically by the name of the owner. The list shall state as to each item listed the information required by §11A-3-35 of this code to be set forth in the land record in the Auditor's office, and shall specify as to each tract listed as delinquent or non-entered the amount of taxes and interest due or chargeable thereon on the date of certification, the publication and other charges due, with interest, and the total currently due. The specification of taxes due or chargeable shall as to delinquent land commence with those for nonpayment of which it was certified, and as to non-entered land with those properly chargeable to it for the first year of nonentry, subject to the provisions of the proviso set forth in §11A-3-38(b) of this code.

All items certified by the Auditor shall be numbered consecutively. All subsequent entries, applications, or proceedings under this article in respect to any item shall refer to its number and the year of certification. Notwithstanding any provisions of this article to the contrary, all tracts, lots, or parcels certified to the Auditor as a unit may be treated by the Auditor as a single item for purposes of certification. Subject to the provisions of this section, the Auditor shall prescribe a form for the list and shall provide in such form adequate space to show the subsequent history and final disposition of each item certified.

The list shall be made in quadruplicate. The Auditor shall keep the original and send one copy to the clerk of the county commission, one to the sheriff, and one to the West Virginia Land Stewardship Corporation created pursuant to §31-21-1 *et seq*. of this code. The clerk of the county commission shall bind his or her copy in a permanent book to be labeled "Report of Auditor of Delinquent and Non-Entered Lands" and shall note the fact of the certification of each item on his or her record of delinquent lands. Such copies delivered to the clerk of the county commission and the sheriff shall become permanent records, and shall be preserved as such in the offices of the Auditor and the clerk of the county commission.

WV Legislature

§11A-3-45. Auditor to hold annual auction.

(a) Each tract or lot certified by the Auditor pursuant to §11A-3-44 of this code shall be sold by him or her at public auction at the courthouse of the county to the highest eligible bidder during the courthouse's normal operating hours on any business working day within 90 days after the Auditor has certified the lands as required by §11A-3-44 of this code. The payment for any tract or lot purchased at a sale shall be made by check, U. S. currency, or money order payable to the Auditor and delivered before the close of business on the day of sale. No part or interest in any tract or lot subject to such sale, or any part thereof of interest therein, that is less than the entirety of such unredeemed tract, lot, or interest, as the same is described and constituted as a unit or entity in said list, shall be offered for sale or sold at such sale. If the sale shall not be completed on the first day of the sale, it shall be continued from day to day between the same hours until all the land shall have been offered for sale. Bidding at an auction held pursuant to this section constitutes transacting business in this state for purposes of §31B-10-1001 *et seq*., §31D-15-1501 *et seq*., and §31E-14-1401 *et seq*. of this code.

(b) A private, nonprofit, charitable corporation, incorporated in this state, which has been certified as a nonprofit corporation pursuant to the provisions of Section 501(c)(3) of the federal Internal Revenue Code, as amended, which has as its principal purpose the construction of housing or other public facilities and which notifies the Auditor of an intention to bid and subsequently submits a bid that is not more than five percent lower than the highest bid submitted by any person or organization which is not a private, nonprofit, charitable corporation as defined in this subsection, shall be sold the property offered for sale at public auction by the Auditor pursuant to the provisions of this section at the public auction as opposed to the highest bidder.

The nonprofit corporation referred to in this subsection does not include a business organized for profit, a labor union, a partisan political organization, or an organization engaged in religious activities, and it does not include any other group which does not have as its principal purpose the construction of housing or public facilities.

(c) To attain eligibility to bid at a public auction held pursuant to this section, a potential bidder must register in advance of such public auction with the Auditor's office or complete and execute a notarized affidavit affirming that they meet the requirements set forth in this article on the day of the sale. Registration shall be done in accordance with rules promulgated by the State Auditor's office. The Auditor may deregister or refuse to register a potential bidder who:

(1) Has failed to make a payment owed at a prior auction held pursuant to this section;

(2) At the time of registration is delinquent in the payment of real property tax, for which registrant is the most recent owner of record, to any county in this state;

(3) Has a history of noncompliance with code enforcement violations issued by a county or

WV Legislature

municipality pursuant to §7-1-3ff and §8-12-16 of this code;

(4) At the time of registration is subject to legal proceedings in any county or municipality that are related to code enforcement violations regarding real property owned by him or her; and

(5) Within the preceding five years prior to the auction, has failed to comply with a valid raze or repair order (or any other similar order) issued by a county or municipality.

(d) Potential bidders who are domestic or foreign entities as defined in chapters 31B, 31D, and 31E of this code must show proof at the time of their registration that they properly registered with the Secretary of State's office and are authorized to conduct business in this state.

(e) In order to effectuate the purposes of this section, the Auditor may promulgate procedural rules, interpretive rules, and legislative rules, including emergency rules, or any combination thereof, in accordance with §29A-3-1 *et seq*. of this code.

WV Legislature

§11A-3-45a. Certain parties barred from participating in public auctions.

(a) Citizens of or entities organized in or controlled by citizens or governments of any country designated as a Country of Particular Concern by the Department of State of the United States of America are ineligible from participating in any public auction held pursuant to §11A-3-45 of this code.

(b) For purposes of this section, "Country of particular concern" means a country that has been designated as such by the Department of State of the United States of America pursuant to Section 408(a) of 22 USC 6448.

WV Legislature

§11A-3-46. Publication of notice of auction.

(a) Once a week for three consecutive weeks prior to the auction required in §11A-3-45 of this code, the Auditor shall publish notice of the auction as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for such publication shall be the county.

The notice shall be in form or effect as follows:

Notice is hereby given that the following described tracts or lots of land in the County of _____, have been certified by the Auditor of the State of West Virginia, for sale at public auction. The lands will be offered for sale by the undersigned Auditor at public auction in (specify location) the courthouse of _____ County between the hours of _____ in the morning and_____in the afternoon, on the _____ day of _____, 20_____.

Each tract or lot as described below will be sold to the highest eligible bidder at the auction. The payment for any tract or lot purchased at a sale shall be made by check or money order payable to the Auditor and delivered before the close of business on the day of the sale. If any of said tracts or lots remain unsold following the auction, they will be subject to later sale without additional advertising or public auction. All potential bidders must register in advance of the auction with the Auditor's office. Citizens of or entities organized in or controlled by citizens of any country designated as a Country of Particular Concern by the Department of State of the United States of America are ineligible from participating in the auction held pursuant to this section. Bidding at the auction constitutes transacting business in this state for purposes of §31B-10-1001 *et seq*., §31D-15-1501 *et seq*., and §31E-14-1401 *et seq*. of this code. The Auditor's sale may include tracts or lots remaining unsold from a previous auction not required by law to be readvertised and described for this subsequent auction of those same tracts and lots. All sales are subject to the approval of the Auditor of the State of West Virginia.

(here insert description of advertised lands to be sold)

Any of the aforesaid tracts or lots may be redeemed by any person entitled to pay the taxes thereon, the owner of the same whose interest is not subject to separate assessment, or any person having a lien on the same, or on an undivided interest therein, at any time prior to the sale by payment to the Auditor of the total amount of taxes, interest, and charges due thereon up to the date of redemption. Lands listed above as escheated or waste and unappropriated lands may not be redeemed.

Given under my hand this _____ day of _____, 20_____.

_____ Auditor of the State of West Virginia.

(b) The description of lands required in the notice shall be in the same form as the list

WV Legislature

certifying said lands for sale. If the Auditor is required to auction lands certified to him or her in any previous years, pursuant to §11A-3-48 of this code, he or she shall include such lands in the auction without further advertisement, with reference to the year of certification and the item number of the tract or interest.

(c) To cover the cost of preparing and publishing the notice, a charge of $30 shall be added to the taxes, interest, and charges due on the delinquent and nonentered property.

WV Legislature

§11A-3-47. Redemption prior to sale.

Any of the delinquent and nonentered lands certified to the deputy commissioner may be redeemed, prior to the auction, by the owner of such land or any other person entitled to pay the taxes thereon, the owner of such lands whose interest is not subject to separate assessment, or any person having a lien on such land, or on an undivided interest therein, by payment of the taxes, interest, and charges due. The deputy commissioner shall prepare an original and five copies of the receipt, give to the person redeeming the original receipt, retain one copy for his files and forward one copy each to the sheriff, Auditor, assessor, and the clerk of the county commission, each of whom shall note the fact of such redemption on their respective records of delinquent lands. Any person redeeming the interest of another shall be subrogated to the lien of the state on such interest as provided in section nine, article one of this chapter.

WV Legislature

§11A-3-48. Unsold lands subject to sale without auction or additional advertising.

(a) If any of the lands which have been offered for sale at the public auction provided in §11A-3-45 of this code shall remain unsold following such auction, or were sold at a tax sale auction within the previous five years which were not redeemed and for which no deed was secured by the purchaser, or if the Auditor refuses to approve the sale pursuant to §11A-3-51 of this code, the Auditor may sell the lands without any further public auction or additional advertising of the land, in the following priority: (1) To a person vested with an ownership interest in an adjacent tract or parcel of land: *Provided*, That if more than one adjacent landowner desires to acquire the same tract or lot, then the Auditor shall sell such tract or lot to the highest bidder; (2) to the municipality in which the tract or lot is located; (3) the county commission of the county in which the tract or lot is located; (4) to the West Virginia Land Stewardship Corporation as part of its Land Bank Program set forth in §31-21-11 of this code; or (5) to any party willing to purchase such property.

(b) The price of such property shall be as agreed upon by the Auditor and purchaser: *Provided*, That the Auditor may engage a licensed attorney to provide a title examination on lands set forth in the preceding subsection and require that a purchaser reimburse the Auditor for any expenses related to the title examination as a condition for the sale: *Provided, however*, That instead of the Auditor, a purchaser may engage a licensed attorney to provide a title examination at his or her own cost.

(c) The Auditor may refuse to sell unsold lands to a potential buyer that is subject to any of the following:

(1) Has failed to make a payment owed at a prior previous auction held pursuant to §11A-3-45 of this code;

(2) At the time of registration is delinquent in the payment of real property tax, for which registrant is the most recent owner of record, to any county in this state;

(3) Has a history of noncompliance with code enforcement violations issued by a county or municipality pursuant to §7-1-3ff and §8-12-16 of this code;

(4) At the time of registration is subject to legal proceedings in any county or municipality that are related to code enforcement violations regarding real property owned by them; and

(5) Within the preceding five years prior to the purchase, has failed to comply with a valid raze or repair order (or any other similar order) issued by a county or municipality.

www.Legislature.wv

§11A-3-48a. Certain parties barred from purchasing unsold lands.

(a) Citizens of or entities organized in or controlled by citizens or governments of any country designated as a country of particular concern by the United States Department of State shall be barred from purchasing unsold lands pursuant to §11A-3-48 of this code.

(b) For purposes of this section, a "Country of particular concern" means a country that has been designated as such by the Department of State of the United States of America pursuant to Section 408(a) of 22 USC 6448.

WV Legislature

§11A-3-49. Purchase by owner or deputy commissioner or other officers prohibited; coowner free to purchase at sale.

(a) It shall be illegal for an owner, in whose name any real estate was certified to the Auditor or was subjected to the authority of the Auditor because of the nonentry thereof, or his heirs or assigns, or his or their agent, to purchase such real estate at sale provided in section forty-five or forty-eight of this article. No deputy commissioner, sheriff, clerk of the county commission or circuit court, assessor, nor deputy of any of them, shall directly or indirectly become the purchaser, or be interested in the purchase of any real estate at the sale. Any such person or officer so purchasing shall for each offense forfeit $1,000, to be collected as other forfeitures are collected. The sale of any real estate, or the conveyance of such real estate by tax deed, to one of the persons or officers named in this section shall be voidable at the instance of any person having the right to redeem until such real estate reaches the hands of a bona fide purchaser.

(b) Any coowner, except a coparcener, in the absence of satisfactory proof of a fiduciary relationship, shall be entitled to purchase at the sale for his own account the interest of any, or all, of his coowners in any real estate, without being required to hold such interest or interests under a constructive trust. There shall be a prima facie presumption against such constructive trust.

WV Legislature

§11A-3-50. Receipt to purchaser for purchase price.

The Auditor shall prepare an original and two copies of the receipt for the purchase money. He or she shall give the original receipt to the purchaser and shall file one copy thereof with the clerk of the county commission and one copy thereof with the sheriff, each of whom shall note the fact of such sale on their respective records of delinquent lands. The heading of the receipt shall be:

Memorandum of real estate sold in the county of _____ on this ___ day of _____, 20 ___, by _____, the Auditor of the State of West Virginia.

Except for the heading, the Auditor shall prescribe the form of the receipt.

WV Legislature

§11A-3-51. Deputy commissioner to report sales to Auditor; Auditor to approve sales.

Within fourteen days following the auction required by section forty-five of this article, and within fourteen days of any sale pursuant to section forty-eight of this article, the deputy commissioner must report such sales to the Auditor. The report must include the year that the land was certified by the Auditor for sale, the item number of the land on the list certifying the land for sale, the amount of taxes, interest and charges due on such land at the time of the sale, the quantity of the land, the name and address of the purchaser and the purchase price. The report shall be filed with the Auditor. The Auditor may prescribe the form of the report.

As soon as possible after receiving the report, the Auditor shall determine whether the sale is in the best interest of the state and shall either approve or disapprove the sale. The Auditor shall then note such approval or disapproval and, if disapproved, the reasons therefor, on the report, and return a copy to the deputy commissioner. The original shall be retained by the Auditor. The deputy commissioner shall provide a copy of the report approved or disapproved by the Auditor to the sheriff and to the county clerk.

If the Auditor shall disapprove any such sale, the deputy commissioner shall forthwith refund the purchase price to the purchaser. The land shall then be again subject to sale pursuant to sections forty-five and forty-eight of this article. If the Auditor approves the sale, the purchaser shall immediately commence the steps to obtain a deed, as provided in section fifty-two of this article.

WV Legislature

§11A-3-52. Duties of purchaser to secure a deed.

(a) Within 120 days following the approval of the sale by the Auditor pursuant to §11A-3-51 of this code, the purchaser, his or her heirs or assigns, in order to secure a deed for the real estate purchased, shall:

(1) Prepare a list of those to be served with notice to redeem and request the Auditor to prepare and serve the notice as provided in §11A-3-54 and §11A-3-55 of this code;

(2) When the real property subject to the tax lien was classified as Class II property, provide the Auditor with the actual mailing address of the property that is subject to the tax lien or liens purchased; and

(3) Deposit, or offer to deposit, with the Auditor a sum sufficient to cover the costs of preparing and serving the notice.

(b) If the purchaser fails to fulfill the requirements set forth in subsection (a) of this section, the purchaser shall lose all the benefits of his or her purchase.

(c) After the requirements of subsection (a) of this section have been satisfied, the Auditor shall issue and notice to redeem as required by §11A-3-54 and §11A-3-55 of this code.

(d) If the person requesting preparation and service of the notice is an assignee of the purchaser, he or she shall, at the time of the request, file with the Auditor a written assignment to him or her of the purchaser's rights, executed, acknowledged, and certified in the manner required to make a valid deed.

(e) Whenever a purchaser has failed to comply with the notice requirements set forth in subsection (a) of this section, the purchaser may receive an additional 60 days from the expiration of the time period set forth in subsection (a) of this section to comply with the notice requirements set forth in subsection (a) of this section if the purchaser files with the Auditor a request in writing for the extension within 30 days following the expiration of the time period set forth in subsection (a) of this section and makes payment by U. S. currency, cashier's check, certified check, or money order in the amount of $100 or 10 percent of the total amount paid on the day of sale set forth in §11A-3-45 of this code, whichever is greater. The fee for issuing the certificate of extension shall be $25 made payable to the Auditor.

(f) The Auditor shall each month draw his or her warrant upon the treasury payable to the county board of education of each county for payment received by him or her for the extension of the time period set forth in subsection (e) of this section for property located within each such county.

WV Legislature

§11A-3-53. Refund to purchaser of payment made at Auditor's sale where property is nonexistent.

If, within 180 days following the approval of the sale by the Auditor, the purchaser discovers that the property purchased at the sale is nonexistent, the purchaser shall submit the abstract or certificate of an attorney-at-law that the property is nonexistent. Upon receipt of the abstract or certificate, the Auditor cause the moneys so paid on the day of the sale to be refunded. Upon refund of the amount bid at an Auditor's sale, he or she shall inform the assessor that the property does not exist for the purpose of having the assessor correct the error.

If at any within 180 days following the approval of the sale by the Auditor, the sheriff, clerk of the county commission, assessor or Auditor determines that the tax lien on the subject property should be cancelled or dismissed, the Auditor shall issue a certificate of cancellation on the tax lien and shall cause the money paid on the day of the sale to be refunded.

WV Legislature

§11A-3-54. Notice to redeem.

Whenever the provisions of §11A-3-52 of this code have been complied with, the Auditor shall thereupon prepare a notice in form or effect as follows:

To _____

You will take notice that _____, the purchaser (or _____, the assignee, heir, or devisee of _____, the purchaser) of the following real estate, _____, (here describe the real estate sold) located in _____, (here name the city, town, or village in which the real estate is situated or, if not within a city, town, or village, give the district and a general description) which was _____ (here put whether the property was returned delinquent or non-entered) in the name of _____, and was sold by the Auditor at the sale for delinquent taxes (or nonentry) on the ___ day of _____, 20 ___, has requested that you be notified that a deed for such real estate shall be made on or after the ___ day of _____, 20 ___, as provided by law, unless before that day you redeem such real estate. The amount you shall have to pay to redeem on the ___ day of _____, 20___ shall be as follows:

Amount equal to the taxes, interest, and charges due on the date of sale, with interest to _____ ..... $_____

Amount of taxes paid on the property, since the sale, with interest to _____ ..... $_____

Amount paid for title examination and preparation of list of those to be served, and for preparation and service of the notice with interest to _____ ..... $_____

Amount paid for other statutory costs (describe) _____ ..... $_____

Total ..... $_____

You may redeem at any time before _____ by paying the above total less any unearned interest.

If the above real estate is your primary residence, you may petition the Auditor to redeem the real estate in not more than three incremental payments that equal the total amount required to redeem the real estate prior to the issuance of the deed described above.

Given under my hand this ___ day of _____, 20 ___.

Auditor

_____ County,

State of West Virginia

WV Legislature

For preparing this notice, the Auditor shall receive a fee of $10 for the original and two dollars for each copy required. Any costs which must be expended in addition thereto for publication, or service of such notice in the manner provided for serving process commencing a civil action, or for service of process by certified mail, shall be charged by the Auditor. All costs provided by this section shall be included as redemption costs and included in the notice described herein.

WV Legislature

§11A-3-55. Service of notice.

(a) As soon as the Auditor has prepared the notice provided for in §11A-3-54 of this code, he or she shall cause it to be served upon all persons named on the list generated by the purchaser pursuant to the provisions of §11A-3-52 of this code. Such notice shall be mailed and, if necessary, published at least 45 days prior to the first day a deed may be issued following the Auditor's sale.

(b) The notice shall be served upon all such persons residing or found in the state in the manner provided for serving process commencing a civil action or by certified mail, return receipt requested, or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30th day following the request for such notice.

(c) The notice shall be served upon persons not residing or found in the state by certified mail, return receipt requested, or in the manner provided for serving process commencing a civil action or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30 days following the request for the notice.

(d) If the address of a person is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code and the publication area for the publication shall be the county in which the real property is located. If service by publication is necessary, publication shall be commenced within 60 days following the request for the notice, and a copy of the notice shall, at the same time, be sent pursuant to subsection (b) or (c) of this section, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in his or her office, together with any return receipts for notices sent by certified mail.

(e) In addition to the other notice requirements set forth in this section, if the real property subject to the tax lien was classified as Class II property at the time of the assessment, at the same time the Auditor issues the required notices by certified mail, the Auditor shall forward a copy of the notice sent to the delinquent taxpayer by first class mail, or in the manner provided for serving process commencing a civil action, addressed to "Occupant", to the physical mailing address for the subject property. The physical mailing address for the subject property shall be supplied by the purchaser of the property, pursuant to the provisions of §11A-3-52 of this code. Where the mail is not deliverable to an address at the physical location of the subject property, the copy of the notice shall be sent to any other mailing address that exists to which the notice would be delivered to an occupant of the subject property.

WV Legislature

§11A-3-56. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.

(a) After the sale of any tax lien on any real estate pursuant to §11A-3-45 or §11A-3-48 of this code, the owner of, or any other person who was entitled to pay the taxes on any real estate for which a tax lien thereon was purchased whose interest is not subject to separate assessment, or any person having a lien on such real estate, or on an undivided interest therein, may redeem at any time before a tax deed is issued therefor. In order to redeem, he or she must pay to the Auditor the following amounts:

(1) An amount equal to the taxes, interest, and charges due on the date of the sale, with interest thereon at the rate of one percent per month from the date of sale;

(2) All other taxes thereon, which have since been paid by the purchaser, or his or her heirs, with interest at the rate of one percent per month from the date of payment;

(3) Such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney's title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount he or she shall be required to pay, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-52 of this code, and for any licensed attorney's title examination incident thereto, shall not exceed $500. An attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-52 of this code;

(4) All additional statutory costs paid by the purchaser; and

(5) The Auditor's fee and commission as provided by §11A-3-66 of this code. Where the Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, or of any licensed attorney's title examination incident thereto, in the form of receipts or other evidence thereof, the person redeeming shall pay the Auditor the sum of $500 plus interest thereon at the rate of one percent per month from the date of the sale for disposition pursuant to the provisions of §11A-3-57, §11A-3-58, and §11A-3-64 of this code. Upon payment to the Auditor of those and any other unpaid statutory charges required by this article, and of any unpaid expenses incurred by the sheriff, the Auditor, and the deputy commissioner in the exercise of their duties pursuant to this article, the Auditor shall prepare an original and five copies of the receipt for payment and shall note on said receipts that the property has been redeemed. The original of such receipt shall be given to the person redeeming. The Auditor shall retain a copy of the receipt and forward one copy each to the sheriff, assessor, and the clerk of the county commission. The clerk shall endorse on the receipt the fact and time of such filing and note the fact of redemption on his or her record of delinquent lands.

(b) Any person for reasons of financial hardship may petition the Auditor to redeem his or

WV Legislature

her primary residence in installments. The petition shall certify to the Auditor that the real estate is the primary residence of the redeeming party. The Auditor may approve a financial hardship plan and it shall be signed by him or her and the party making the request. A copy of the document evidencing such acceptance shall be filed with the clerk of the county commission in which the property is located.

(c) Any person who, by reason of the fact that no provision is made for partial redemption of the tax lien on real estate purchased at the public auction or at a subsequent sale, is compelled in order to protect himself or herself to redeem the tax lien on all of such real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He or she shall lose his or her right to the lien, however, unless within 30 days after payment he or she shall file with the clerk of the county commission his or her claim in writing against the owner of such interest, together with the receipt provided for in this section. The clerk shall docket the claim on the judgment lien docket in his or her office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

WV Legislature

§11A-3-57. Notice of redemption to purchaser; moneys received by sheriff.

(a) Upon payment of the sum necessary to redeem, the deputy commissioner shall promptly deliver to the sheriff the redemption money paid and the name and address of the purchaser, his or her heirs or assigns.

(b) Of the redemption money received by the sheriff pursuant to this section, the sheriff shall hold as surplus to be disposed of pursuant to §11A-3-64 of this code an amount thereof equal to the amount of taxes, interest and charges due on the date of the sale, plus the interest at the rate of one percent per month thereon from the date of sale to the date of redemption.

WV Legislature

§11A-3-58. Distribution to purchaser.

(a) Where the land has been redeemed in the manner set forth in §11A-3-56 of this code, and the deputy commissioner has delivered the redemption money to the sheriff pursuant to §11A-3-57 of this code, the sheriff shall, upon delivery of the sum necessary to redeem, promptly notify the purchaser, his or her heirs or assigns, by mail, of the redemption and pay to the purchaser, his or her heirs or assigns, the following amounts:

(1) The amount paid to the deputy commissioner at the sale;

(2) All other taxes thereon, which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) Such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney's title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-52 of this code, and for any licensed attorney's title examination incident thereto, shall not exceed $500; and

(4) All additional statutory costs paid by the purchaser.

(b) (1) The notice shall include:

(A) A copy of the redemption certificate issued by the deputy commissioner;

(B) An itemized statement of the redemption money to which the purchaser is entitled pursuant to the provisions of this section; and

(C) Where, at the time of the redemption, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem or for any licensed attorney's title examination incident thereto, the deputy commissioner shall also include instructions to the purchaser as to how these expenses may be claimed.

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in preparing the list of those to be served with notice to redeem and for any licensed attorney's title examination incident thereto from the date of the sale to the date of the redemption.

(c) Where, pursuant §11A-3-56 of this code, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, in the form of receipts or other evidence of legal expenses, or for any licensed attorney's title examination and rendered written documentation used for the preparation of the list incident thereto, in the form of receipts or other evidence thereof, and therefore received

WV Legislature

from the purchaser as required by said section and delivered to the sheriff the sum of $500 plus interest thereon at the rate of one percent per month from the date of the sale to the date of redemption, and the sheriff has not received from the purchaser such satisfactory proof of such expenses within 30 days from the date of notification, the sheriff shall refund such amount to the person redeeming and the purchaser is barred from any claim thereto. Where, pursuant to §11A-3-56 of this code, the deputy commissioner has received from the purchaser and therefore delivered to the sheriff said sum of $500 plus interest thereon at the rate of one percent per month from the date of the sale to the date of redemption, and the purchaser provides the sheriff within 30 days from the date of notification such satisfactory proof of such expenses, and the amount of such expenses is less than the amount paid by the person redeeming, the sheriff shall refund the difference to the person redeeming.

WV Legislature

§11A-3-59. Deed to purchaser; record.

If the real estate described in the notice is not redeemed within the time specified therein, but in no event prior to 30 days after notices to redeem have been personally served, or an attempt of personal service has been made, or such notices have been mailed or, if necessary, published in accordance with the provisions of §11A-3-55 of this code, following the deputy commissioner's sale, the deputy commissioner shall, upon the request of the purchaser, make and deliver to the person entitled thereto a quitclaim deed for such real estate in form or effect as follows:

This deed, made this _____ day of _____, 20____, by and between _____, deputy commissioner of delinquent and nonentered lands of _____ County, West Virginia, grantor, and _____, purchaser (or _____ heir, devisee, assignee of _____, purchaser) grantee, witnesseth, that

Whereas, in pursuance of the statutes in such case made and provided, _____, deputy commissioner of delinquent and nonentered lands of _____ County, did, on the _____ day of _____, 20_____, sell the real estate hereinafter mentioned and described for the taxes delinquent thereon for the year(s) 20_____, (or as nonentered land for failure of the owner thereof to have the land entered on the land books for the years _____, or as property escheated to the State of West Virginia, or as waste or unappropriated property) for the sum of $_____, that being the amount of purchase money paid to the deputy commissioner, and _____ (here insert name of purchaser) did become the purchaser of such real estate, which was returned delinquent in the name of _____ (or nonentered in the name of, or escheated from the estate of, or which was discovered as waste or unappropriated property); and

Whereas, the deputy commissioner has caused the notice to redeem to be served on all persons required by law to be served therewith; and

Whereas, the real estate so purchased has not been redeemed in the manner provided by law and the time for redemption set forth in such notice has expired.

Now, therefore, the grantor for and in consideration of the premises recited herein, and pursuant to the provisions of Article 3, Chapter 11A of the West Virginia Code, doth grant unto _____, grantee, his or her heirs and assigns forever, the real estate so purchased, situate in the County of _____, bounded and described as follows: _____ (here insert description of property)

Witness the following signature:

_____

Deputy Commissioner of Delinquent and Nonentered Lands of _____ County

Except when ordered as provided in §11A-3-60 of this code, the deputy commissioner shall

WV Legislature

execute and deliver a deed within 120 days after the purchaser's right to the deed accrued.

For the preparation and execution of the deed and for all the recording required by this section, a fee of $50 and the recording expenses shall be charged, to be paid by the grantee upon delivery of the deed. The deed, when duly acknowledged or proven, shall be recorded by the clerk of the county commission in the deed book in his or her office, together with the assignment from the purchaser, if one was made, the notice to redeem, the return of service of such notice, the affidavit of publication, if the notice was served by publication, and any return receipts for notices sent by certified mail.

Upon payment of the final costs and fees required by this article, the purchaser shall have the right to inspect and perform necessary and reasonable repairs for the preservation of the real property: Provided, That the current occupant has a duty to preserve the property to the best of his or her ability and control.

WV Legislature

§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 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.

WV Legislature

§11A-3-61. One deed for adjoining pieces of real estate within the same tax district.

Whenever one purchaser at the tax sale has purchased tax liens on two or more adjoining pieces of real estate within the same tax district, or undivided interests therein, charged with taxes for the same year, or years, he his heirs or assigns, may request the deputy commissioner to execute a separate deed for each adjoining piece of real estate within the same tax district, or undivided interest therein, or separate deeds for some and one deed for the remainder, or one deed for all, as he or they may prefer. Every deed for two or more adjoining pieces of real estate within the same tax district, or undivided interests therein, shall describe each piece of real estate and each undivided interest separately.

WV Legislature

§11A-3-62. Title acquired by individual purchaser.

(a) Whenever the purchaser of any tax lien on any real estate sold at a tax sale, his heirs or assigns, shall have obtained a deed for such real estate from the deputy commissioner or from a commissioner appointed to make the deed, he or they shall thereby acquire all such right, title and interest, in and to the real estate, as was, at the time of the execution and delivery of the deed, vested in or held by any person who was entitled to redeem, unless such person is one who, being required by law to have his interest separately assessed and taxed, has done so and has paid all the taxes due thereon, or unless the rights of such person are expressly saved by the provisions of section forty-nine of this article or section two, three, four or six, article four of this chapter.

The tax deed shall be conclusive evidence of the acquisition of such title. If the property was sold for nonpayment of taxes, the title so acquired shall relate back to July 1, of the year in which the taxes, for nonpayment of which the real estate was sold, were assessed. If the property was sold for nonentry pursuant to section thirteen of this article, or escheated to the state, or is waste and unappropriated property, the title shall relate back to the date of sale.

(b) Any individual purchaser to whom a tax deed has been issued may institute and prosecute actions to quiet title in any such real estate conveyed thereby. Such action may be maintained for all or any one or more of the lots or tracts conveyed.

WV Legislature

§11A-3-63. Effect of irregularity on title acquired by purchaser.

No irregularity, error or mistake in respect to any step in the procedure leading up to and including delivery of the tax deed by the deputy commissioner shall invalidate the title acquired by the purchaser unless such irregularity, error or mistake is, by the provisions of section forty-nine of this article or section two, three, four or six, article four of this chapter, expressly made ground for instituting a suit to set aside the sale or the deed.

WV Legislature

§11A-3-64. Sheriff to receive proceeds of deputy commissioners' sales and redemptions from the deputy commissioner; disposition.

(a) The sheriff shall receive all proceeds of sales held by the deputy commissioner pursuant to sections forty-five and forty-eight of this article, and all redemption money paid to the deputy commissioner pursuant to this article. All funds to be paid to the deputy commissioner pursuant to sections forty-five, forty-eight and fifty-six of this article shall be paid by check or money order payable to the sheriff of the county. The deputy commissioner shall, immediately upon receipt of any such payment, turn such moneys over to the sheriff.

(b) The sheriff shall keep i-n a separate fund, to be known and designated the "Delinquent Nonentered Land Fund", the proceeds of all redemptions and sales paid to him under the provisions of sections forty-five, forty-eight and fifty-six of this article. Out of the total proceeds of each sale or redemption he shall, in the order of priority stated below, credit the following amount for payment as hereinafter provided: (1) To the deputy commissioner, such part as represents compensation due him under the provisions of section sixty-six of this article and the charge for the cost of preparing and publishing the notice required in section forty-six of this article; (2) to the Auditor, such part as represents any charges which were paid by or which are payable to him (3) to the general county fund, such part as represents costs paid out of such fund for publishing the sheriff's delinquent and sales list and all other costs incurred by the sheriff pursuant to the provisions of this article; and (4) to the Auditor for credit to the general school fund, such part as represents all taxes and interest chargeable in respect to any nonentered lands and all surplus proceeds of sale of any waste and unappropriated lands. In addition thereto, surplus proceeds from the deputy commissioner's sale of delinquent and nonentered lands, as well as the proceeds from the sale of escheated lands, shall be held by the sheriff for the periods provided in section sixty-five of this article and section seven, article four of this chapter, and if no claim is made therefore to the sheriff within the time therein specified, such amounts shall be paid to the Auditor for credit to the general school fund.

The balance, if any, of the proceeds of the lands sold by the deputy commissioner shall be prorated among the various taxing units on the basis of the total amount of taxes due them in respect to the lands that were sold or redeemed. The amounts so determined shall be credited as follows, for payment as hereinafter provided: (1) To the Auditor, such part as represents state taxes and interest; and (2) to the fund kept by the sheriff for each local taxing unit, such part as represents taxes and interest payable to such unit.

(c) All amounts which under the provisions of this section were so credited by the sheriff to the deputy commissioner shall be paid to him quarterly; those credited to the Auditor shall be paid to him quarterly; and those credited to the various local taxing units shall be transferred quarterly by the sheriff to the fund kept by him for each such taxing unit.

(d) The Tax Commissioner, in cooperation with the land department in the Auditor's office, shall prescribe the form of the records to be kept by the sheriff for the purposes of this section, and the method to be used by him in making the necessary pro rata distributions.

WV Legislature

§11A-3-65. Right of former owner to surplus proceeds.

The former owner of any delinquent or nonentered lands sold pursuant to sections forty-five and forty-eight of this article, his heirs or assigns, shall be entitled to the surplus received from the sale over and above the taxes and interest charged or chargeable thereon including all costs of the sale, if his or their claim be filed in the circuit court of the county in which the land is situated within two years after the date of confirmation of said sale. If no claim is filed with the court within the two years, then such surplus shall be paid by the sheriff to the Auditor for credit to the general school fund.

WV Legislature

§11A-3-66. Compensation of Auditor.

As compensation for his or her services, the Auditor shall be entitled to a fee of $20 for each item certified by him or her pursuant to §11A-3-44 of this code. In addition thereto he or she shall receive a commission of seven and one half percent and interest on each sale or redemption not to exceed $120.00. A commission received on a sale shall be based on the sale price and a commission received on a redemption shall be based on the total taxes and interest due. Such compensation shall be paid as provided in this article. Ten dollars of the commission fee received by the Auditor on a redemption shall be deposited into the Courthouse Facilities Improvement Fund set out in §29-26-6 of this code.

WV Legislature

PART III.

§11A-3-67. Liability of officer failing to perform duty; penalty.

If any officer mentioned in this article shall refuse to perform any duty required of him he shall forfeit not less than twenty-five nor more than $100 for each such failure or refusal, unless a different penalty is imposed by the provisions of this article.

WV Legislature

§11A-3-68. Disposition of lands heretofore purchased by or forfeited to state.

All lands which have been heretofore purchased by the state at a tax sale pursuant to the provisions of the former article three of this chapter and which have not been redeemed from the Auditor or certified to t he circuit court for sale as provided in the former article four of this chapter shall be reported by the Auditor to the sheriff of the county in which the lands are situated for reentry on the landbooks. Such lands shall be reentered on the landbooks in the name of the person charged with taxes on the land at the time of purchase by the state, and charged with all unpaid taxes thereon, including those taxes which have accrued since such purchase by the state, and all costs charged to such lands arising from the tax sale and purchase by the state. Such lands shall then be subject to disposition pursuant to this article.

All lands which have heretofore been forfeited to the state pursuant to the provisions of former article four of this chapter, and which have not been certified to the circuit court for sale pursuant to such article, shall be deemed nonentered pursuant to section thirty-seven of this article, and shall be subject to redemption and sale as provided herein.

All lands which have heretofore been certified to the circuit court for sale by the deputy commissioner pursuant to the provisions of the former article four of this chapter shall be deemed certified to the deputy commissioner for sale pursuant to section forty-four of this article, and shall be subject to redemption and sale as provided herein. All suits heretofore instituted by the deputy commissioners pursuant to the provisions of the former article four of this chapter, which have not been reduced to judgment for the sale of all lands listed in such suits, are hereby dismissed, and the lands listed in such suits shall be deemed certified to the deputy commissioner pursuant to section forty-four of this article and shall be subject to redemption and sale as provided herein. All lands subject to sale under any court order entered in any such suit, which have not yet been sold pursuant to such order, shall be deemed certified to the deputy commissioner for sale pursuant to section forty-four of this article, and shall be subject to redemption and sale as provided herein. All lands which have been sold prior to the effective date of this act under any court order entered in any such suit shall be deemed sold and any tax deed which has or shall issue for any such land pursuant to the provisions of the former article four of this chapter are hereby confirmed as valid, subject to the discretion of the court as set forth in the former section thirty-one, article four of this chapter: Provided, That if the court refuses to confirm said sale, the land shall be deemed certified to the deputy commissioner for sale pursuant to section forty-four of this article, and shall be subject to redemption and sale as provided herein.

WV Legislature

§11A-3-69. Effect of repeal.

The repeal of the provisions of §11A-3-5, §11A-3-5a, §11A-3-5b, §11A-3-6, §11A-3-7, §11A-3-14, §11A-3-15, §11A-3-16, §11A-3-17, §11A-3-18, §11A-3-19, §11A-3-20, §11A-3-21, §11A-3-22, §11A-3-23, §11A-3-24, §11A-3-25, §11A-3-26, §11A-3-27, §11A-3-28, §11A-3-29, §11A-3-30, and §11A-3-31 of this code, enacted during the 2022 regular session of the Legislature, shall not affect any tax liens sold prior to January 1, 2022.

WV Legislature

§11A-3-70. Release of title to, and taxes on, lands on which all taxes paid for ten years.

In view of the desirability of stable land titles and to encourage landowners to cause their lands to be assessed and pay the taxes thereon, it is the purpose and intent of the Legislature to release all of the state's title and claim and the authority and control of the Auditor to any real estate on which all taxes have been paid for ten consecutive years and release all taxes prior to such ten-year period. If, heretofore or hereafter, all taxes due on any parcel of land for ten consecutive years have been fully paid, all title to any such land acquired by the state prior to said ten-year period or all real property tax liens which subject the lands to the authority and control of the Auditor prior to said ten-year period shall be and is hereby released to the person who would be the owner thereof but for the title of the state or the real property tax liens which subject the lands to the authority and control of the Auditor so released and all unpaid taxes prior to said ten-year period are declared to be fully paid.

Nothing contained in this section shall affect or be held or construed to affect in any way the right or title of a person claiming to any land by transfer as provided in section three, article XIII of the Constitution of the State of West Virginia prior to the repeal of said Constitutional provision in the year one thousand nine hundred ninety-two.

It is the intention of the Legislature that this section shall be both retroactive and prospective.

WV Legislature

§11A-3-71. Deeds of deputy commissioner conveying coal, oil, gas, timber and other natural resources.

In any deed by the deputy commissioner in which said commissioner conveys or has heretofore conveyed coal, oil, gas, timber or any natural resources, as certified to him by the Auditor of the state to be sold for the benefit of the school fund or as otherwise provided in this article, it shall not be necessary to recite the mining, drilling, cutting or other rights and privileges appurtenant to the same, which were a part of the deed of severance of said natural resources from the surface or other estate; and in cases where any such deeds may have heretofore been made and the rights and privileges were not recited in such deeds, the rights and privileges are hereby declared to have attached and passed by such deeds and all such conveyances are hereby ratified and confirmed.

WV Legislature

§11A-3-72. Release of taxes and interest.

In view of the great uncertainty and confusion existing in the Auditor's records of delinquent lands for the years prior to one thousand nine hundred thirty-six, due to the insufficient and inadequate reports by former school land commissioners and the doubtful status of delinquent or forfeited undivided interests, the Legislature finds that it will be impossible to provide a speedy method for disposing of delinquent and forfeited lands and for conveying to the purchasers of such lands a secure title, unless some action is taken to prevent the certifications and sale of lands which were formerly redeemed from or were sold by such commissioners, but which appear on the Auditor's records, as unsold and unredeemed. Wherefore, it is the purpose and intent of the Legislature to release all taxes, interest and charges that may be due on any real estate in this state for the assessment year one thousand nine hundred thirty-five and for all years prior thereto, and all such taxes, interest and charges are hereby declared to be fully paid. If all the taxes due on any land for the assessment year one thousand nine hundred thirty-six and for all years subsequent thereto have been paid, all title to any such land theretofore acquired by the state and any land subject to the authority and control of the Auditor shall be and is hereby released.

The Auditor, in computing the amount necessary for redemption as provided in section thirty-eight of this article, and in preparing the list of lands for certification to the deputy commissioner as provided in section forty-four of this article, shall use the assessment year one thousand nine hundred thirty-six as the initial year for which taxes are to be charged. He shall specify the year in which the state acquired title, but if such year was prior to the year one thousand nine hundred thirty-six, shall charge no taxes for any year prior thereto, nor shall he charge any interest, fees, penalties or costs for any years prior to the year one thousand nine hundred thirty-six.

Nothing contained in this section shall be held or construed to affect in any way the right of a person claiming title to any land by transfer, as provided in section three, article XIII of the Constitution of West Virginia prior to the repeal of said Constitutional provision in the year one thousand nine hundred ninety-two.

WV Legislature

§11A-3-73. Release of taxes, interest and charges on land assessed by erroneous description, etc; misdescription, etc., not to result in forfeiture or subject land to the authority and control of the Auditor.

In view of the large number of lots, parcels and tracts of land in this state which are entered on the land books by descriptions, or statement of interest or estate, or name of owner, or in a taxing district, which are erroneous or deficient in various particulars and the large number of lots, parcels and tracts of land in this state, and interests and estates therein, which appear on the land books by entries which have been or may be considered to be irregular, erroneous, invalid or void in various particulars because of the way in which the name of the owner, the area, the lot or tract number or reference, the local description, the statement of the interest or estate and other particulars are stated, or because the entries are in the wrong taxing district; and the uncertainty which exists as to whether the payment of taxes thereon prevents the land intended to be assessed from having been forfeited for nonentry or be subject to the authority and control of the Auditor pursuant to section thirty-seven of this article; and in view of the necessity for permitting the owners of such land to pay taxes thereon in safety and to relieve from and avoid double payment of taxes on the same land in such cases, it is the purpose and intent of the Legislature to, and it hereby does, release all taxes and charges that may be or become due or unpaid, or considered to be or become due or unpaid, on any such lot, parcel or tract of land in this state for each year that the taxes charged thereon under such entry have been or shall be paid, even though the entry be entirely different in description or otherwise from the land intended or be completely deficient, provided the identity of the land intended by such entry can be ascertained. All title which has been acquired by the State of West Virginia by forfeiture of land or lands which are subject to the authority and control of the Auditor because of any such entry for any such year is hereby released and granted to the owner of such land in all cases where the identity of the land intended by such entry can be ascertained. No such entry heretofore or hereafter made for any such year shall constitute, or be considered to constitute, a failure of the owner of such land to have the same entered on the land books and to have himself charged with taxes thereon, or an omission of the same from the land books, or shall result in, or be considered to have resulted in a forfeiture for nonentry of the land or be considered to subject the land to the authority and control of the Auditor intended by such entry if the identity of the land intended by such entry can be ascertained. Such identity may be ascertained by any available evidence, parole or written, of record or not of record, including, but not limited to, tracing back prior years land book entries and valuations to a transfer to the present or a former owner, notations on the land books and other records in the office of the assessor for the current and prior years, conveyances to and from the present and former owners, and all pertinent evidence not within the foregoing classes. The provisions of this section are remedial and shall be liberally construed for the relief of landowners.

WVLegislature

§11A-3-74. Severability.

If any section, subsection, subdivision, subparagraph, sentence or clause of this article is adjudged to be unconstitutional or otherwise invalid, such invalidation shall not affect the validity of the remaining portions of this article and, to this end, the provisions of this article are hereby declared to be severable.

WV Legislature

§11A-4-1. Declaration of legislative purpose.

In furtherance of the policy declared in section one, article three of this chapter, it is the intent and purpose of the Legislature to provide reasonable opportunities for delinquent taxpayers to protect their interests in their lands and to provide reasonable remedies in certain circumstances for persons with interests in delinquent and escheated lands.

WV Legislature

§11A-4-2. Right to set aside sale or deed when all taxes paid before sale.

Any owner of real estate for which a tax lien was sold for nonpayment of taxes pursuant to the provisions of article three of this chapter, when all taxes thereon had in fact been paid before the sale, his heirs and assigns, or the person who paid the taxes, may, before the expiration of three years following the sale, institute a civil action to set aside the sale and to enjoin the proper official from taking any further steps in the procedure provided in this and the following article, or, if a deed has been delivered to the purchaser, before the expiration of three years following the delivery of the deed, institute a civil action to set aside the deed. If such action is instituted by or on behalf of the owner of an undivided interest which was included in a group assessment but which was separately redeemed as provided in section eighteen, article two of this chapter, the sale or the deed shall be set aside only insofar as it affects his interest.

WV Legislature

§11A-4-3. Right to set aside deed improperly obtained.

Whenever the Auditor has delivered a deed to the purchaser after the time specified in §11A-3-59 of this code, or, within that time, has delivered a deed to a purchaser who was not entitled thereto either because of his failure to meet the requirements of §11A-3-52 of this code, or because the property conveyed had been redeemed, the owner of such property, his heirs and assigns, or the person who redeemed the property, 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, except in the case of redemption, until payment has been made or tendered to the purchaser, he or she, his or her heirs and 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 12 percent per annum.

WV Legislature

§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 §11A-3-55 of this code 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 or her interests by redeeming the property, he or she, his or her heirs and assigns may, before the expiration of two years following the delivery of the deed, institute a civil action to set aside the deed.

(b) Any person instituting a civil action pursuant to this section seeking to set aside a tax deed shall, as a condition precedent to the court allowing the action to proceed, tender to the clerk of the court in which the suit is pending the funds necessary to redeem the real estate. The court shall enter an order directing the clerk to accept the funds of the applicant, and deposit those funds into an account in the control of the clerk pending the conclusion of the proceeding.

(c) In any action brought by a tax sale purchaser or his or her grantee seeking to quiet the title pursuant to an Auditor's sale, the previous owner and any person entitled to notice or right to redeem shall have the right to assert as a defense to the requested remedy the existence of both a failure of notice of the right to redeem and a failure of the applicant for the deed to have exercised reasonably diligent efforts to provide notice of his or her intention to acquire title to the real estate. It shall be a condition precedent to raising such a defense that he or she has the funds necessary to redeem the real estate should he or she prevail. Upon application by the person instituting such suit, the court shall enter an order directing the defendant to tender funds in the sufficient amount to the clerk for deposit into an account in the clerk's control pending conclusion of the proceeding. Failure to tender the necessary funds within 30 days following the entry of the order requiring the deposit shall entitle the purchaser to a judgment in his or her favor.

(d) An answer filed by a purchaser or his or her grantee shall include the amount 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 12 percent per annum.

(e) 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.

(f) Upon a preliminary finding by the court that the deed will be set aside pursuant to this section, such amounts on deposit with the clerk pursuant to this section shall be paid by the clerk to the sheriff within one month of the entry thereof and shall direct the sheriff to pay to the purchaser amounts pursuant to §11A-3-58 of this code. Upon a finding by the court that the deed will not be set aside and with the entry of a judgment dismissing the action with prejudice, the clerk shall return to the plaintiff or other appropriated person whose funds previously tendered, less any accrued costs assessed against such person such funds by the court.

WV Legislature

§11A-4-5. On whose behalf suits instituted; decree when deed set aside.

Any civil action instituted under the provisions of section two, three or four of this article by a person other than the former owner, his heirs or assigns, must be brought on his or their behalf. Whenever the deed in such case is set aside, the decree shall be that all the right, title and interest of the former owner, his heirs or assigns, is revested in him or them.

WV Legislature

§11A-4-6. Redemption by persons under disability from purchase by individual.

In addition to and notwithstanding any other provisions of this article, any infant or mentally incapacitated person whose real estate was, during such disability, conveyed by tax deed pursuant to this chapter to an individual purchaser, may redeem such real estate by paying to the purchaser, or his heirs or assigns, before the expiration of one year after removal of the disability, but in no event more than twenty years after the deed was obtained, the amount of the purchase money, together with the necessary charges incurred in obtaining the deed, and any taxes paid on the property since the sale, with interest on such items at the rate of twelve percent per annum from the date each was paid. If such person was the owner of an undivided interest in the real estate sold, he may redeem such interest by paying that proportion of the purchase money, charges, taxes and interest chargeable to his interest; but after a deed has been delivered to the purchaser, he shall not have the right to redeem more than his own undivided interest. If improvements have been made on such real estate after the deed was obtained and before the offer to redeem as herein provided, the person redeeming shall pay to the purchaser, or his heirs or assigns, the value of the improvements at the time of such offer, after deducting therefrom the value of the use of such real estate without the improvements, from the date of the deed to the date of the offer. Upon payment or tender of payment, the purchaser, his heirs or assigns, shall, at the expense of the person redeeming, convey to him by quitclaim deed the real estate so redeemed.

One entitled to redeem under the provisions of this section may, if he is unable or is not willing to pay for the improvements made by the purchaser, elect to relinquish his interest in the property. If he so elects, he shall be entitled to an amount equal to the estimated present value of the land without the improvements less what he would have had to pay to redeem the land had no improvements been made. Upon payment to him of such amount, he shall by quitclaim deed convey the land to the purchaser, his heirs or assigns.

If in any case provided for in this section the parties cannot agree on the amount to be paid, any of them may upon ten days' notice in writing to the other, or others, apply by petition, to the circuit court of the county in which the real estate is situated to have the matter referred to a commissioner to ascertain the proper amount to be paid. Upon confirmation by the court or judge of the report of the commissioner, and upon payment or tender of the amount, if any, so ascertained to be due, the person to whom payment or tender was made, shall execute the quitclaim deed as provided above. In the event of his refusal to do so, the court, or judge, may appoint a commissioner to execute the deed.

If there is a refusal to execute the deed in any case in which there was no dispute as to the amount necessary for redemption, the person entitled to the deed may, upon ten days' notice in writing to the other party or parties, apply by petition to the circuit court for the appointment of a commissioner to execute the deed.

WV Legislature

§11A-4-7. Right of creditor of former owner of escheated land.

Any surplus proceeds arising from the sale of escheated land may be applied for by the creditors of the decedent if application is made to the circuit court of the county in which the land is situated within one year after the Auditor has confirmed the sale. Upon proper application to the court within such time such surplus may be applied to the satisfaction of the claims of creditors of the decedent who had a lien on the land at the time of his death, or who, being general creditors, have properly proved their claims against his estate and have been unable to obtain payment out of the personalty. In the disposition of such surplus, due preference shall be given to lien creditors. Any part of such surplus thereafter remaining shall be paid by the sheriff to the Auditor for credit to the general school fund.

WV Legislature