WEST VIRGINIA CODE CHAPTER 11a ARTICLE 3

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.

www.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

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.

WV Legislature

§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