WEST VIRGINIA CODE CHAPTER 11a ARTICLE 4

WV Legislature

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

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

WV Legislature

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

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

WV Legislature

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

Whenever the Auditor has delivered a deed to the purchaser after the time specified in §11A-3-59 of this code, or, within that time, has delivered a deed to a purchaser who was not entitled thereto either because of his failure to meet the requirements of §11A-3-52 of this code, or because the property conveyed had been redeemed, the owner of such property, his heirs and assigns, or the person who redeemed the property, may, before the expiration of three years following the delivery of the deed, institute a civil action to set aside the deed. No deed shall be set aside under the provisions of this section, except in the case of redemption, until payment has been made or tendered to the purchaser, he or she, his or her heirs and assigns, of the amount which would have been required for redemption, together with any taxes which have been paid on the property since delivery of the deed, with interest at the rate of 12 percent per annum.

WV Legislature

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

(a) If any person entitled to be notified under the provisions of §11A-3-55 of this code is not served with the notice as therein required, and does not have actual knowledge that such notice has been given to others in time to protect his or her interests by redeeming the property, he or she, his or her heirs and assigns may, before the expiration of two years following the delivery of the deed, institute a civil action to set aside the deed.

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

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

(d) An answer filed by a purchaser or his or her grantee shall include the amount required for redemption, together with any taxes which have been paid on the property since delivery of the deed, with interest at the rate of 12 percent per annum.

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

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

WV Legislature

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

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

WV Legislature

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

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

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

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

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

WV Legislature

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

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

WV Legislature