

Rec. June 3

11

# ENROLLED BILL

(EXTRAORDINARY SESSION, 1933)

*Conn. Sub. for*  
House Bill No. 12

(By ~~Mr.~~ *Judiciary Committee*)

Passed June 3, 1933

In Effect from Passage

Originated in the..... Takes effect..... Passage

*Geo. L. Steele*  
Clerk House of Delegates.

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*James L. Smith*  
Chairman House Committee.

*James L. Smith*  
Chairman Senate Committee.

## ENROLLED BILL

(Com. Sub. for H. B. No. 12)

[Passed June 3, 1933; in effect from passage.]

AN ACT to provide for the collection and disbursement of taxes due and unpaid which have been assessed and levied on land and real estate, which land and real estate has been returned delinquent and/or forfeited by reason of such nonpayment; to declare any lien given on forfeited and/or delinquent land by an owner thereof by mortgage or trust deed whereby money is obtained to pay off and discharge such delinquencies and/or forfeitures to the extent of the taxes so paid off and discharged with the money so obtained and received to be a preferred lien and reserving to such lender the lien of the state to the extent of the taxes so paid; to provide for the redemption of the lands from such delinquencies and/or forfeitures; to provide for the redemption of lands sold at delinquent sales and purchased by individuals; to stay suits on

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forfeited lands; to make the provisions of this act applicable to delinquent municipal real estate not certified to the auditor; to extend the time for redemption of real estate as provided in sections sixteen and thirty, respectively, article ten, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, sold for nonpayment of taxes and purchased by the state for each of the years nineteen hundred twenty-nine, nineteen hundred thirty and nineteen hundred thirty-one; to extend the time in which the auditor may certify to the commissioner of school lands lists of lands purchased for the state at sales thereof for taxes, as provided in section five, article three, chapter thirty-seven of said code, and not heretofore certified; and to repeal chapter seventeen of the acts of the legislature, extraordinary session, one thousand nine hundred thirty-two.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the owner of any land and real estate in this  
2 state, his heirs, devisees or assigns and any person holding a  
3 lien thereon, or having the right to charge the same with a debt,  
4 which land and real estate has been returned delinquent and/or  
5 forfeited for the nonpayment of taxes levied and assessed against

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6 the same, including forfeited land and real estate certified to  
7 the commissioner of school lands of the respective counties on  
8 which suits may or may not have been instituted or may still  
9 be pending in which no sale and/or confirmation of sale has  
10 been made, may redeem such land and real estate from such de-  
11 linquency and/or forfeiture by the payment to the auditor of  
12 the state of West Virginia of the taxes so levied and assessed,  
13 together with all taxes which would have been levied and ex-  
14 tended on the land books against said real estate had there been  
15 no such forfeiture, without interest or costs, if the same shall  
16 be paid within twelve months from the date this act takes effect.  
17 Such payment shall include all taxes assessed and in arrears for  
18 any and all years prior to the year one thousand nine hundred  
19 thirty-two and prior to such redemption, and any legal costs  
20 as now provided by statute that have accrued by reason of the  
21 prosecution of any suit shall be paid by the commissioner of  
22 school lands in the county in which the land is situated, when  
23 approved and so ordered by the court by order entered of record,  
24 from any funds in his hands, for which said commissioner shall  
25 have credit in his settlement of accounts as such commissioner  
26 and commissioners of school lands shall be allowed in their set-

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27 tlements such reasonable sums as the court shall determine and  
28 allow for work done and services rendered by them and their  
29 attorneys in relation to the tracts, lots and parcels of land which  
30 have been heretofore certified to them and which have not be-  
31 fore this act becomes effective been disposed of, and such sums  
32 so allowed may be by order of the court paid out of funds in the  
33 hands of the commissioners or which shall come into their hands :  
34 *Provided, however,* That where two or more claimants have filed  
35 their petition as required by law asking to redeem the same  
36 tract or tracts of land, said tract or tracts of land shall not be  
37 certified to the auditor by the circuit clerk as provided in section  
38 three of this act, nor be redeemed from the auditor as provided  
39 in section one of this act, but the party decreed by the court  
40 to be entitled to redeem, may redeem said land by paying all  
41 costs accumulated as taxed by the clerk thereof, by reason of the  
42 contest of title, together with the portion of taxes as above set  
43 forth unto the commissioner of school lands.

Sec. 2. It shall be the duty of each commissioner of school  
2 lands in this state to certify to the auditor a list of all land  
3 and real estate forfeited for nonpayment of taxes assessed there-  
4 on, certified to him by the auditor, on which no report has been

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5 made by him to the circuit court or any other court in the county  
6 having jurisdiction, in such form as is now certified to him for  
7 action thereon. The respective commissioners of school lands  
8 or any of them may, notwithstanding the other provisions of  
9 this act, permit and receive redemption of any or all tracts, lots  
10 and parcels of land heretofore certified as forfeited and against  
11 which there shall be a suit pending for the sale thereof at the  
12 time this act takes effect, but no such commissioner shall receive  
13 such redemption unless he shall within thirty days after this  
14 act takes effect give notice of such intention to the clerk of the  
15 circuit court. Where such notice of the commissioner of school  
16 lands shall have been given, the clerk of the circuit court shall  
17 not certify to the state auditor the lands against which such  
18 suits are pending as provided in section three of this act. Re-  
19 demption from commissioners of school lands as to pending  
20 cases, may be made by the same parties, upon the same terms,  
21 within the same time and shall have the same effect to all intents  
22 and purposes as redemptions made from the state auditor when  
23 receipts are recorded as provided by this act, and said commis-  
24 sioners shall execute receipts and make reports when redemptions

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25 are made as herein required by the auditor for like redemp-  
26 tions.

Sec. 3. It shall be the duty of each circuit clerk in each  
2 county in this state to certify to the auditor a list of all land  
3 and real estate forfeited for the nonpayment of taxes assessed  
4 thereon, on which suits are pending and not redeemed or sold,  
5 or which have been reported by the commissioner of school  
6 lands as forfeited for the nonpayment of taxes and on which  
7 no suits have been instituted, which certificate shall show in  
8 whose name such land was forfeited, the year or years forfeited,  
9 the number of acres, the amount of taxes assessed against the  
10 same on all funds, and the general description thereof.

Sec. 4. It shall be the duty of the circuit clerks, and the  
2 commissioners of school lands, mentioned in the two preceding  
3 sections, to make reports, as therein required, within sixty days  
4 from the passage of this act.

Sec. 5. It shall be the duty of the auditor of this state to  
2 receive payment of the taxes mentioned in the lists certified to  
3 him by virtue of sections two and three of this act, and to ac-  
4 count for and disburse the same as other taxes received by him,

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5 and in the payment of such taxes as is mentioned in section one  
6 of this act he shall charge no fees, costs nor interest, and make  
7 written reports every thirty days to the assessor of each county  
8 of this state of all forfeited lands redeemed, and upon the pay-  
9 ment of such taxes to the auditor as aforesaid he shall execute  
10 triplicate receipts, retain and file one in his office and deliver  
11 two thereof, including the original, to the party paying the  
12 same in the following form or to the following effect:

13 .....19.....  
14 Received of.....,  
15 ..... dollars  
16 in full payment of all taxes assessed against.....acres  
17 of land situated on.....in .....district,  
18 county of..... for the year (s).....  
19 .....  
20 (here give the years for which delinquent and/or forfeited) in  
21 the name of.....  
22 which are the total taxes assessed against the same, which pay-  
23 ment is accepted and given by virtue of chapter ..... of the



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24 acts of the extraordinary session of the legislature of one thou-  
25 sand nine hundred thirty-three.

26

27

Auditor of West Virginia.

Sec. 6. The person paying the taxes as provided in the pre-  
2 ceding section shall file the original receipt as mentioned in said  
3 section with the clerk of the county court of the county in which  
4 said real estate is situated, and retain a copy thereof, and upon  
5 the filing of said receipt with said clerk, the real estate therein  
6 mentioned shall be ipso facto redeemed from the delinquency  
7 and/or forfeiture of the land therein mentioned, so far only  
8 as the title thereto is in the state, as provided in chapter thirty-  
9 seven of the code, and which payment shall operate as a release  
10 of such forfeiture and/or delinquency of such real estate and  
11 of all former taxes and interest charged and chargeable thereon.  
12 And such person or persons shall acquire no other title to the  
13 land so redeemed than was vested in him immediately before  
14 such forfeiture by such redemption, and said redemption shall  
15 in no wise affect or impair any right, title, or interest any other  
16 person may have in such real estate or any part thereof by pur-  
17 chase from the state, or under and by virtue of section three,

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18 article thirteen, of the constitution of this state, and shall serve  
19 only to divest the state of its title acquired by reason of said  
20 delinquencies and/or forfeitures; and the said clerk shall note  
21 in his land books such redemption, giving the date thereof, and  
22 record said receipts in a book to be kept for that purpose, en-  
23 titled, "receipts redeeming delinquent and/or forfeited lands,"  
24 and index the same in the name of the owner of the land when  
25 the same became delinquent and/or forfeited as well as in the  
26 name of the party redeeming the same, if he be a person dif-  
27 ferent from the one in whose name the same was returned de-  
28 linquent and/or became forfeited.

Chairman House Committee.

Sec. 7. If the owner of any real estate mentioned in this act  
2 shall borrow money with which to pay the taxes in this act men-  
3 tioned and actually pays the same with the money so borrowed  
4 and secures the payment thereof to the lender by mortgage or  
5 trust deed, such mortgage or trust deed, by reason of the fact  
6 that the same secures money used for the payment of taxes on  
7 real estate, shall have preference and priority over any other  
8 lien existing or created thereon to the extent of the amount of  
9 taxes so paid with interest thereon not to exceed six per cent  
10 per annum, except subsequent taxes, and the state's lien shall

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11 be reserved to the party so loaning the money to the extent of  
12 the taxes so paid, with interest thereon as aforesaid: *Provided,*  
13 *however,* That such trust deed or mortgage herein mentioned  
14 shall be recorded in the office of the clerk of the county court  
15 of the county where the real estate is situated within ten days  
16 after the payment of such taxes.

Sec. 8. Any lands heretofore purchased by individuals at  
2 delinquent sales, made by the sheriff of the respective counties  
3 of this state and for which no deed has been executed, may be re-  
4 deemed by the former owner, his heirs, devisees or assigns or  
5 any person entitled to charge said real estate with a debt, within  
6 twenty-four months from the date this act takes effect, upon  
7 payment to said purchaser of the taxes, interest and costs as  
8 provided in section twelve, article ten, chapter eleven of the  
9 code of this state. Individual purchasers of real estate at  
10 sheriff's sale for nonpayment of taxes for the years nineteen  
11 hundred twenty-nine, nineteen hundred thirty and nineteen  
12 hundred thirty-one, may not apply for deeds until the expira-  
13 tion of the twenty-four months period for redemption as by this  
14 section prescribed, but shall apply for their deeds within six  
15 months next following the expiration of said twenty-four months

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D. H. Hays

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16 period unless suit is pending and then within six months from  
17 termination thereof.

Sec. 9. No suit or suits shall be instituted or prosecuted by  
2 any commissioner of school lands of this state until the expira-  
3 tion of twenty-four months from the date this act takes effect,  
4 unless on the application or with the consent of the owner of  
5 such lands, or by direction of the court by order entered of  
6 record. Unless otherwise provided by charter or ordinance  
7 of a municipality, the general provisions of this act shall like-  
8 wise apply to delinquent real estate in a municipality not certi-  
9 fied to the auditor when delinquent and to delinquent taxes on  
10 such real estate now in the hands of the municipal collector,  
11 which may be paid to said collector and such real estate so re-  
12 deemed upon the terms and conditions as in this act provided.

Sec. 10. The time within which real estate sold for the non-  
2 payment of taxes and purchased by the state may be redeemed  
3 as provided in section thirty, article ten, chapter eleven of the  
4 code of West Virginia, for each of the years nineteen hundred  
5 twenty-nine, nineteen hundred thirty and nineteen hundred  
6 thirty-one shall be extended for a period of twenty-four months  
7 from the time this act takes effect.

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James A. Rogers

Chairman Senate Committee.

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Sec. 11. The time within which the auditor shall certify to  
2 the commissioner of school lands of the proper counties of the  
3 certificates of the clerks of the county courts of such counties of  
4 lands purchased for the state at sales thereof for taxes, as pro-  
5 vided in section five, article three, chapter thirty-seven, of the  
6 code of West Virginia, and not heretofore certified shall be  
7 extended for a period of twenty-four months from the taking  
8 effect hereof.

Sec. 12. That chapter seventeen of the acts of the legislature  
2 of this state passed at extraordinary session thereof in the year  
3 one thousand nine hundred thirty-two, be and the same is here-  
4 by repealed.

5 If any section of this act, or any part thereof, shall be held  
6 unconstitutional by any court of this state, it shall not affect any  
7 other part or provision thereof.

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*James D. Shiner*  
Chairman Senate Committee.

*James D. Shiner*  
Speaker of the House of Delegates.

*Geo. H. Hall*  
Clerk of the House of Delegates.

*A. G. Mainwaring*  
President of the Senate.

*Frank Smith*  
Clerk of the Senate.

*James L. Smith*  
Chairman House Committee.

The within is.....

this..... day of..... 1933.

.....  
Governor.

Filed in the office of the Secretary of State  
of West Virginia JUN 12 1933  
Wm. S. O'BRIEN,  
Secretary of State