

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1941



ENROLLED

HOUSE BILL No. 269

(By Mr. Thomas)



PASSED March 6, 1941

In Effect from Passage

269

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AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing articles nine and ten, chapter eleven, and article three, chapter thirty-seven, and by adding thereto a new chapter, numbered eleven-a, relating to the collection and enforcement of property taxes and to the sale of lands for the school fund.

Be it enacted by the Legislature of West Virginia:

That articles nine and ten, chapter eleven, and article three, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new chapter to be numbered eleven-a, to read as follows:

**Chapter 11a. COLLECTION AND ENFORCEMENT OF
PROPERTY TAXES.**

Article 1. Accrual and Collection of Taxes.

Section 1. *Definition of Terms.*—The words tax, taxes,
2 taxable and taxation as used in this chapter shall, unless
3 otherwise specified, be applicable to all levies on real or
4 personal property made by any of the taxing units named
5 in section four, article eight, chapter eleven of this code.
6 The words land or lands or tract or tracts of lands, or
7 lot or lots, or real estate, or real property, or part or parcel
8 of a tract or lot, or estate or estates in land, as used in this
9 chapter shall be deemed to include an undivided interest
10 in any freehold estate in land.

Sec. 2. *Lien for Real Property Taxes.*—There shall be a
2 lien on all real property for the taxes assessed thereon,
3 and for the interest and other charges upon such taxes,
4 at the rate and for the period provided by law, which lien
5 shall attach on the first day of January of the year for
6 which the taxes are assessed.

Sec. 3. *Accrual; Time for Payment; Interest on Delin-*
2 *quent Taxes.*—All current taxes assessed on real and per-

sonal property may be paid in two installments. The first installment shall be payable on November first of the year in which the assessment is made, and shall become delinquent on December first; the second installment shall be payable on the first day of the following May and shall become delinquent on June first. Taxes paid on or before the date when they are payable, including both first and second installments, shall be subject to a discount of two and one-half percent. If the first installment is not paid before December first, interest at the rate of nine percent per annum shall be added from December first until paid; if the second installment is not paid before June first, interest at the rate of nine percent per annum shall be added from June first until paid.

Sec. 4. Collection by Sheriff.—The sheriff, as ex officio county treasurer, shall collect all taxes levied in his county. For this purpose he shall have an office at the county seat, which shall be kept open daily during business hours.

Sec. 5. Appointment of Collector; Bond.—The county court may appoint a collector in any county when necessary to collect such taxes. The collector shall have a rea-

4 sonable time for making collections and accounting there-
5 for. Before acting, he shall execute an official bond, in
6 the penalty of not less than five thousand dollars, to be
7 approved by the county court, and filed with the clerk
8 thereof. All provisions of this chapter in respect to the
9 rights, duties and liabilities of the sheriff shall be applic-
10 able to the collector, should one be appointed.

Sec. 6. *When Collection to Commence.*—The sheriff
2 shall commence collection of current taxes on the fifteenth
3 day of September, or as soon thereafter as he receives
4 copies of the land and personal property books.

Sec. 7. *No Collection of Current Taxes Until Delinquent*
2 *Taxes Are Paid.*—The sheriff shall not accept payment
3 of current taxes on any real property without first obtain-
4 ing satisfactory evidence of full settlement of delinquent
5 taxes on that property for the previous year.

Sec. 8. *Notice of Time and Place for Payment.*—It shall
2 be the duty of the sheriff to give notice by posting at not
3 less than six public places in each magisterial district, for
4 at least ten days before the time appointed, that between
5 September fifteenth and November first he will attend

6 at one or more of the most public and convenient places
7 in each district, such places to be specified in the notice,
8 for the purpose of receiving taxes due by the people re-
9 siding or paying taxes in such district. The notice shall
10 also state that those who pay the first installment of their
11 taxes on or before November first will be entitled to a dis-
12 count of two and one-half percent. Like notice shall be
13 given that between March fifteenth and May first he will
14 again appear in each district for the collection of taxes,
15 and that those who pay their second installment on or
16 before May first will be entitled to the same discount.
17 Any sheriff failing to post the notice herein required shall
18 forfeit one hundred dollars for each failure.

19 The county court of any county may order that the
20 above notice shall also be given by advertisement. Upon
21 such order, the sheriff shall, besides posting as required
22 above, insert the proper notice in two newspapers of
23 opposite politics, if such there be in the county, once a
24 week for two successive weeks next preceding the first
25 day of October or the first day of April as the case may be.

26 For every failure so to advertise, the sheriff shall forfeit
27 one hundred dollars.

Sec. 9. *Payment of Taxes by Co-owner or Other Inter-
2 ested Party; Lien.*—Any owner of real estate whose inter-
3 est is not subject to separate assessment, or any person
4 having a lien on the land, or on an undivided interest
5 therein, or any other person having an interest in the
6 land, or in an undivided interest therein, which he desires
7 to protect, shall be allowed to pay the whole, but not a
8 part, of the taxes assessed thereon. Any co-owner of real
9 estate whose interest is subject to separate assessment
10 shall be allowed at his election to pay the taxes either
11 on his own interest alone or in addition thereto upon the
12 interest of any or all of his co-owners. If his own or any
13 other interest less than the whole, on which he desires
14 to pay the taxes, was included in a group assessment, he
15 must before payment have the group assessment split
16 and must secure from the assessor and present to the
17 sheriff a certificate setting forth the changes made in
18 the assessment. The sheriff shall make the necessary
19 changes in his records, prepare new tax bills to conform

20 thereto, and then deliver the certificate to the clerk of
21 the county court who shall note the changes on his
22 records.

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

Sec. 10. Payment by Owner of Part of a Tract or Lot

2 *Assessed to Another.*—Any person owning a part of a tract
3 or lot, the whole of which was assessed in the name of
4 another, shall be allowed to pay the taxes on such part
5 upon complying with the provisions of this section. He
6 must before payment obtain from the clerk of the county
7 court a certificate of the transfer of title to him, which
8 certificate shall contain such information concerning the

9 transfer as is required for each transfer included in the
10 certified list provided for in section eight, article four,
11 chapter eleven of this code. On the basis of the informa-
12 tion in this certificate, he must then have the assess-
13 ment split and must secure from the assessor and present
14 to the sheriff a certificate setting forth the changes made
15 in the assessment. The sheriff shall make the necessary
16 changes in his records, prepare new tax bills to conform
17 thereto, and then deliver the certificate to the clerk of
18 the county court who shall note the changes on his records.

Sec. 11. *Payment by Fiduciary.*—When a tax is paid by
2 a fiduciary on any property under his control, or on the
3 income of such property, the tax shall be refunded out
4 of the property or its income.

Sec. 12. *Receipt for Taxes.*—The sheriff shall deliver to
2 the person paying any taxes a written or printed receipt
3 therefor, and shall retain for his records the stub or dupli-
4 cate of such receipt. The receipt and the stub or duplicate
5 shall specify the number of capitations; the total value of
6 personal property; the number of acres of land, and the
7 number of town lots, with the valuation of each tract or

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8 lot separately charged. The receipt shall state distinctly
9 the amount of tax paid for state, school, county, municipal
10 and district purposes, and for any other purpose for which
11 a tax has been levied; and the whole amount so paid shall
12 be accurately totaled and set down in the receipt. The
13 officer receiving payment shall sign each receipt in his
14 own handwriting.

15 The tax commissioner may prescribe uniform tax state-
16 ments and receipts for use in all the counties of the state.

17 Sec. 13. *Accounts to be Kept by Sheriff.*—The sheriff
18 shall keep separate accounts in a permanent book, in form
19 prescribed by the tax commissioner, of all the taxes re-
20 ceived and disbursed by him, for the different purposes
21 for which the taxes were levied. Each of such accounts
22 shall be kept so as to show the total receipts and disburse-
23 ments up to the close of business on each day; and in
24 a separate column opposite such totals the sheriff shall
25 ascertain and note in figures, at the close of each day's
26 transactions the balance due from or to him as the case
27 may be, on account of such funds. The account book shall
28 be subject to inspection at any time by the tax commis-

13 sioner, members of the county court, the clerk thereof,
14 the prosecuting attorney or the mayor or treasurer of any
15 municipality.

Sec. 14. *Payment by Sheriff into State Treasury.*—All
2 taxes collected for the state shall be paid into the state
3 treasury by the sheriff as follows: On or before January
4 fifteenth, all such taxes collected before January first; on
5 or before July fifteenth, all collected before July first.
6 Every sheriff who fails to make any payment when due
7 shall be charged with interest at the rate of twelve per-
8 cent per annum.

Sec. 15. *Payment by Sheriff to Municipal Treasurer.*—
2 Each month the sheriff shall pay all taxes collected for
3 any municipal corporation into the treasury of such cor-
4 poration, payment to be made on or before the fifth day
5 of each month of all taxes collected during the preceding
6 month. For the faithful performance of this duty, he shall
7 execute a bond, to be approved by the municipal council,
8 in the penalty to be fixed by the council not to exceed
9 the amount of municipal taxes which it is estimated he
10 will collect within any period of two months. The pre-

11 mium on such bond shall be paid by the municipality.
12 Every sheriff who fails to make any payment when due
13 shall be charged with interest at the rate of twelve per-
14 cent per annum.

15 Sec. 16. *Sheriff Charged with All Levies; Final Settle-*
16 *ment.*—The sheriff shall be charged each year with all
17 taxes levied in his county. On or before August first
18 of the following year, he shall make a final settlement with
19 each taxing unit and account for all taxes assessed for
20 the preceding year. In the settlement, he shall be credited
21 with all such taxes collected and paid over by him to or
22 on account of the taxing unit. He shall also be credited
23 with all such taxes listed as delinquent as provided in the
24 following article. The remainder of the taxes assessed for
25 the preceding year shall be accounted for by him as if
26 they had been collected before the delinquent lists were
27 prepared.

28 Sec. 17. *Sheriff's Commission for Collection.*—After the
29 sheriff has collected eighty-five percent of the combined
30 total of all taxes assessed on real and personal property,
31 he shall, in addition to the salary and compensation now

5 authorized by law, be allowed a commission of one and
6 one-half percent on the remainder of the taxes actually
7 collected, exclusive of interest and charges thereon, if the
8 collection be made before the delinquent list has been
9 approved by the county court. The commission so allowed
10 shall be determined by the county court and charged
11 against the various funds for which the taxes are collected.

Article 2. Delinquency and Methods of Enforcing Payment.

Section 1. *Duty of Sheriff to Enforce Payment of De-*
2 *linquent Taxes.*—Whenever any taxes become delinquent,
3 it shall be the duty of the sheriff to take immediate steps
4 to enforce payment by use of the methods prescribed in
5 sections two, three and seven of this article.

Sec. 2. *Collection by Suit.*—Taxes are hereby declared
2 to be debts owing by the taxpayer, for which he shall be
3 personally liable. After delinquency, the sheriff may en-
4 force this liability by appropriate action in any court of
5 competent jurisdiction. No such action shall be brought
6 after five years from the time the action accrued.

Sec. 3. *Distrain.*—The sheriff may, as soon as taxes
2 become delinquent, distrain any goods or chattels in the

3 county belonging to the person or to the estate in land
4 assessed with the taxes. If such goods or chattels are
5 about to be removed from the county, the sheriff may
6 distrain even before delinquency. Whenever rent payable
7 by a tenant is a share of the crop, such share only, whether
8 severed or not, shall be liable to distress for taxes assessed
9 against the landlord.

Sec. 4. *Abatement of Distress.*—Whenever by mistake
2 taxes are assessed wholly to one person or estate on a
3 tract or lot of land, part of which has become the freehold
4 of another, by a title recorded before January first of the
5 assessment year, the goods and chattels of the party or
6 estate so assessed shall not be liable to distraint for more
7 than a due proportion of such taxes.

Sec. 5. *Distraint of Encumbered Property.*—No trust
2 deed, mortgage or sale of goods and chattels shall prevent
3 their being distrained for all taxes assessed against the
4 grantor or former owner thereof, while such goods and
5 chattels remain in his possession; nor shall such deed,
6 mortgage or sale prevent their being distrained for taxes

7 assessed on such goods and chattels, no matter in whose
8 possession they may be found.

Sec. 6. *Distraint Where Land Lies in More Than One*
2 *County.*—Where taxes are assessed on land lying partly
3 in one county and partly in another, the sheriff of the
4 county in which the taxes are so assessed may distraint
5 goods or chattels on that part of the land lying in the
6 other county.

Sec. 7. *Summary Procedure for Collection Out of Money*
2 *Due from or Property Held by Another.*—Whenever there
3 is any person who is now indebted to, or who, as tenant,
4 lessee or otherwise, will for any rent, issue, delay rentals,
5 gas well rentals, or royalties of any kind, in the future
6 become indebted to, or who has in his possession property
7 belonging to, any delinquent taxpayer, the sheriff may
8 make written application to such person demanding pay-
9 ment of the taxes out of such money as is now or may
10 become due, or out of the property. No person so applied
11 to shall make any payment or deliver any of the property
12 to the delinquent taxpayer until the taxes are paid. From
13 the time of the making of such application the taxes shall

14 constitute a lien on any such money now or to become
15 due from the person applied to and on such property held
16 by him. The sheriff shall endorse upon the application
17 the time and the place application was made and shall
18 file it for record with the clerk of the county court.

19 Upon the failure of any person to comply with the appli-
20 cation, the sheriff may serve such person with a notice in
21 writing to appear and answer for his failure before a
22 court of competent jurisdiction. The notice shall designate
23 the court before which he is to appear, and shall state
24 the time for such appearance, which time shall not be
25 less than ten days after service of the notice, the name
26 of the delinquent taxpayer and the amount of the de-
27 linquency.

28 The sheriff shall endorse the time and place of service
29 on the original of such notice, and shall file it with the
30 court designated therein. If the person served does not
31 appear, judgment shall be entered against him in favor of
32 the sheriff for the amount of taxes due, with costs of the
33 proceeding. If he does appear, the court, upon proof that
34 he was a person to whom application might properly be

35 made, shall render judgment against him for the amount
36 of taxes due, with costs of the proceeding, which judgment
37 shall be payable only out of the money which is now or
38 is to become due to the delinquent taxpayer or out of
39 property held for him. Appeals and writs of error shall
40 lie as in other cases.

41 Payment of the taxes, in whole or in part, by the person
42 applied to, whether made upon application only or made
43 toward satisfaction of a judgment against him, shall en-
44 title him to a credit on any obligation he may owe the
45 delinquent taxpayer, or to a charge against any property
46 held for the taxpayer, and to a first lien on any such prop-
47 erty, for the amount paid, unless he was by an express
48 contract bound to pay the taxes.

Sec. 8. Remedies Against Vendee in Possession Without
2 *Deed.*—Any purchaser in possession of land, whether or
3 not he has obtained a deed therefor, shall be personally
4 liable for the taxes assessed against the land after he
5 obtained possession, unless the vendor has expressly con-
6 tracted to pay the taxes himself. The sheriff may collect

7 from the purchaser by any of the methods provided for in
8 this article.

Sec. 9. *Remedies of Sheriff Paying Over Taxes not Col-*
2 *lected.*—If the sheriff has paid into the treasury of the
3 state, or of any county or municipality, taxes due from
4 any person before they were collected by him, he may in
5 order to reimburse himself collect from such person by
6 any of the methods provided for in this article, but he
7 shall not be subrogated to the state's lien for such taxes.

Sec. 10. *Sale of Real Estate for Taxes.*—In addition to
2 the methods for the collection of taxes provided for in this
3 article, real estate may be sold for the taxes assessed
4 thereon in the manner prescribed in article three of this
5 chapter.

Sec. 11. *Delinquent Lists; Oath.*—The sheriff, after
2 ascertaining which of the taxes assessed in his county are
3 delinquent, shall, on or before the first day of July next
4 succeeding the year for which the taxes were assessed,
5 prepare the following delinquent lists, arranged by dis-
6 tricts and alphabetically by name of the person charged,
7 and showing in respect to each the amount of taxes re-

8 maining delinquent at the end of the fiscal year on June
9 thirtieth: (1) A list of property in the land book im-
10 properly entered or not ascertainable. (2) A list of other
11 delinquent real estate. (3) A list of all other delinquent
12 taxes.

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

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

22 Except for the oath, the tax commissioner shall pre-
23 scribe the form of the delinquent lists.

Sec. 12. Penalty for Inclusion of Taxes Paid in Delin-
2 *quent Lists.*—If a sheriff shall include in one of the de-
3 linquent lists any taxes which have been collected by him,
4 he shall forfeit to the person named in the list, if the
5 return was by design, ten times the amount of the taxes

6 so collected, or if the return was by mistake, twice the
7 amount.

Sec. 13. *Publication and Posting of Delinquent Lists.*—

2 A copy of each of the delinquent lists shall be posted at
3 the front door of the courthouse of the county, at least
4 two weeks before the session of the county court at which
5 they are to be presented for examination. At the same
6 time a copy of each list shall be printed once in two news-
7 papers of opposite politics, if such there be in the county,
8 and the costs of printing shall be paid out of the county
9 treasury; but in such publication, only the aggregate
10 amount of the taxes owed by each person need be pub-
11 lished. To cover the costs of preparing, publishing and
12 posting the delinquent lists, a charge of one dollar shall
13 be added to the taxes and interest already due on each
14 item listed.

Sec. 14. *Correction of Delinquent Lists by County*

2 *Court; Certification to Auditor; Recordation.*—The sheriff
3 shall, at or before the session of the county court at which
4 the county levy is to be laid, present the delinquent lists
5 to the county court for examination. The court having

6 become satisfied that the lists are correct, or having cor-
7 rected them if erroneous, shall direct the clerk of the
8 court to certify a copy of each list to the auditor not later
9 than September first. The original lists shall be preserved
10 by the clerk in his office, and the list of delinquent real
11 estate shall be recorded in a permanent book to be kept
12 by him for that purpose.

Sec. 15. *Examination of Lists by Auditor; Credit to*
2 *Sheriff.*—It shall be the duty of the auditor to examine
3 each list, and if he has reason to believe that it is erro-
4 neous, he shall return it to the county court for correction,
5 stating his reasons why it should be corrected as to any
6 person or subject listed therein. The auditor shall credit
7 the sheriff with all state taxes mentioned in each list.

Sec. 16. *Effect of Irregularity as to Delinquent Lists on*
2 *Later Tax Enforcement Procedure.*—No irregularity, error
3 or mistake in respect to anything required by this article
4 to be done concerning the delinquent lists shall invalidate
5 any tax title based upon later tax enforcement procedure.
6 Nor shall any person be allowed to enjoin or otherwise
7 question the validity of any subsequent step in the tax

8 enforcement procedure by reason of such irregularity,
9 error or mistake, unless he shows that he was actually
10 prejudiced thereby.

Sec. 17. *Presumption of Payment Based on Omission
2 from Delinquent Lists.*—Where a tax is charged to any
3 person or assessed against any property, and the name of
4 the person charged or the property assessed does not ap-
5 pear in the proper delinquent list, it shall be presumed,
6 in the absence of evidence to the contrary, that the tax
7 so charged or assessed was paid before the time when
8 such list was required to be made.

Sec. 18. *Redemption Before Sale; Record; Lien.*—The
2 owner of any real estate returned delinquent, or any other
3 person entitled to pay the taxes thereon, may redeem at
4 any time before the sale provided for in the following
5 article by payment of the taxes, interest and charges due.
6 However, redemption of an undivided interest included
7 in a group assessment or of part of a tract or lot the whole
8 of which was assessed in the name of a person other than
9 the owner shall not be permitted until the applicable pro-
10 visions of section nine or of section ten, article one of this

11 chapter have been complied with. The sheriff shall give
12 to the person redeeming a duplicate receipt, one of which
13 shall be filed with the clerk of the county court, who
14 shall note the fact of such redemption on his record of
15 delinquent lands. Whenever only part of a tract or lot,
16 or only an undivided interest therein, has been redeemed,
17 the clerk shall make the necessary changes in his record
18 of delinquent lands before noting the fact of redemption
19 on the record. Any person redeeming an interest of an-
20 other shall be subrogated to the lien of the state on such
21 interest as provided in section nine, article one of this
22 chapter.

Article 3. Sale of Land for Taxes.

Section 1. *Declaration of Legislative Purpose and*
2 *Policy.*—In view of the paramount necessity of provid-
3 ing regular tax income for the state, county and municipal
4 governments, particularly for school purposes; and in
5 view of the fact that tax delinquency, aside from being
6 a burden on the taxpayers of the state, seriously impairs
7 the rendering of these essential services; and in view of
8 the further fact that delinquent land, with its attendant

9 problems made acute by the events of the past decade,
10 not only constitutes a public liability, but also represents
11 a failure on the part of delinquent private owners to bear
12 a fair share of the costs of government; now, therefore,
13 the legislature declares that its purpose in the enactment
14 of this and the following article is threefold: first, to
15 provide for the speedy and expeditious enforcement of
16 the tax claims of the state and its subdivisions; second,
17 to provide for the transfer of delinquent lands to those
18 more responsive to, or better able to bear, the duties of
19 citizenship than were the former owners; and third, in
20 furtherance of the policy favoring the security of land
21 titles, to establish an efficient procedure that will quickly
22 and finally dispose of all claims of the delinquent former
23 owner and secure to the new owner the full benefit of
24 his purchase.

Sec. 2. *Second Publication and Posting of List of Delin-*
2 *quent Real Estate; Notice.*—On or before November tenth
3 of each year the sheriff shall prepare a second list of
4 delinquent lands, which shall include all real estate in
5 his county remaining delinquent as of November first,

6 together with a notice of sale, in form or effect as follows:
7 Notice is hereby given that the following described tracts
8 or lots of land or undivided interests therein in the county
9 of....., which are delinquent for the nonpay-
10 ment of taxes for the year (or years) 19....., will be offered
11 for sale by the undersigned sheriff (or collector) at public
12 auction at the front door of the courthouse of the county,
13 between the hours of ten in the morning and four in the
14 afternoon on the.....day of....., 19.....
15 Each unredeemed tract or lot, or each unredeemed part
16 thereof or undivided interest therein, or so much thereof
17 as may be necessary, will be sold for the amount due
18 thereon, as set forth in the following table:

19	Name of person	Quantity	Local	Total amount of taxes, interest
20	charged	of	description	and charges due to
21	with taxes	land		date of sale

22 Any of the aforesaid tracts or lots, or a part thereof
23 or an undivided interest therein, may be redeemed by
24 the payment to the undersigned sheriff (or collector)
25 before sale, of the total amount of taxes, interest and
26 charges due thereon up to the date of redemption.

27 Given under my hand this.....day of.....,
28 19....

29

30

Sheriff (or collector).

31 The sheriff shall publish the list and notice, once a
32 week for four successive weeks prior to the sale date
33 fixed in the notice, in two newspapers of opposite pol-
34 itics, if such there be in the county, and the costs of
35 printing shall be paid out of the county treasury. He
36 shall also post a copy of such list and notice at the front
37 door of the courthouse at least four weeks before the
38 sale. If there is no newspaper published in the county,
39 or if no such newspaper will publish the list and notice
40 for the compensation provided by law, then the sheriff
41 shall also post a copy of the notice, but not of the delin-
42 quent list, at some public place in each magisterial dis-

43 trict at least twenty days before the sale. In such case
44 the notice shall also state that the delinquent list has
45 been posted at the front door of the courthouse.

46 To cover the costs of preparing, printing and posting
47 the delinquent list, a charge of two dollars shall be added
48 to the taxes, interest and charges already due on each
49 item listed. The sum of the taxes, interest to the date
50 of sale, and other charges shall be stated in the list as
51 the total amount due.

Sec. 3. *Redemption After Second Publication and Be-*
2 *fore Sale.*—Any of the real estate included in such list
3 may be redeemed at any time before sale as provided
4 in section eighteen, article two of this chapter.

Sec. 4. *Sale by Sheriff.*—Each unredeemed tract or
2 lot, or each unredeemed part thereof or undivided inter-
3 est therein, or so much of any unredeemed tract or part
4 thereof as may be necessary, shall be sold by the sheriff
5 at public auction, between the hours of ten in the morning
6 and four in the afternoon on the second Monday in
7 December, for the total amount of taxes, interest and
8 charges then due. If the sale is not completed on that day,

9 it shall be continued from day to day between the same
 10 hours until all the land has been disposed of.

Sec. 5. *Suspension from Sale.*—Whenever it shall appear
 2 to the sheriff that any real estate included in the list ought
 3 not to be sold for the amount stated therein, he shall
 4 suspend the sale thereof and report his reasons therefor
 5 to the county court. If the court finds that the real estate
 6 ought not to be sold, it shall so order; but if the court
 7 finds that the real estate ought to be sold for the amount
 8 stated, or for a greater or less amount, it shall order the
 9 sheriff to include such real estate in his next November
 10 list, unless sooner redeemed.

Sec. 6. *Purchase by State.*—If no person present bids the
 2 amount of taxes, interest and charges due on any real
 3 estate offered for sale, the sheriff shall purchase it on
 4 behalf of the state for the amount so due.

Sec. 7. *Title Acquired by State.*—Upon such purchase
 2 by the state, title to the real estate sold shall without any
 3 deed be vested in the state, subject, however, to the
 4 right of redemption provided for in the following section.

Sec. 8. *Redemption from Purchase by or Forfeiture to*

2 *the State.*—The former owner of any real estate purchased
3 by the state or forfeited to the state for nonentry, or any
4 other person who was entitled to pay the taxes thereon,
5 may redeem at any time until such real estate has been
6 sold as provided in article four of this chapter, and the
7 sale confirmed by the circuit court. In order to redeem,
8 he must pay to the auditor such of the following amounts
9 as may be due: (1) The taxes, interest and charges for
10 which the real estate was sold, with interest at the rate of
11 twelve percent per annum from the date of sale. (2) All
12 taxes assessed thereon for the year in which the sale
13 occurred, with interest at the rate of twelve percent
14 per annum from the date on which they became delin-
15 quent, except when such taxes are currently due and
16 payable to the sheriff. (3) All taxes except those for
17 the current year which would have been assessed thereon
18 since the sale had the sale not occurred, or which, in the
19 case of land forfeited for nonentry, would have been
20 assessed thereon had the land been properly entered,
21 with interest at the rate of twelve percent per annum
22 from the date on which they would have become delin-

23 quant. (4) The fee provided by the following section
24 for the issuance by the auditor of the certificate of re-
25 demption.

26 In computing the amount due under number three on
27 real estate purchased by the state, the auditor shall use
28 as the basis for computation the classification and valua-
29 tion placed thereon by the assessor for each year since
30 the sale. If such valuation and classification have not been
31 made, he shall use the last valuation and classification
32 appearing on the property books. In computing the
33 amount due under number three on real estate forfeited
34 for nonentry, the auditor shall use as the basis for com-
35 putation such classification and valuation as may, at the
36 request of the auditor or the person redeeming, be cer-
37 tified to the auditor by the assessor as the classification
38 and valuation which in his opinion would be proper for
39 each year of nonentry.

40 In the case of partial redemption, he must pay only
41 that proportion of such taxes as are chargeable to the
42 part or interest redeemed, but must pay all of the other
43 charges and the fee required for redemption of the whole.

44 However, redemption of an undivided interest included
45 in a group assessment or of part of a tract or lot the whole
46 of which was assessed in the name of a person other than
47 the owner shall not be permitted until the applicable
48 provisions of section nine or of section ten, article one
49 of this chapter have been complied with, except that
50 instead of presenting the assessor's certificate to the sheriff
51 as therein required, the person redeeming shall present
52 it to the auditor, who, after making the necessary changes
53 in the land book and in the record of delinquent lands
54 kept in his office, shall compute the taxes due on the part
55 or interest redeemed.

Sec. 9. *Certificate of Redemption Issued by Auditor;*
2 *Recordation.*—Upon payment of the sum necessary to
3 redeem, the auditor shall execute a certificate of redemp-
4 tion in triplicate, which certificate shall specify the real
5 estate redeemed, or the part thereof or the interest therein,
6 as the case may be, together with any changes in respect
7 thereto which were made in the land book and in the
8 record of delinquent lands, shall specify the year or
9 years for which payment was made, and shall state that

10 it is a receipt for the money paid and a release of the
11 state's title to the real estate redeemed. The original
12 certificate shall be retained in the files in the auditor's
13 office, one copy shall be delivered to the person redeem-
14 ing and the second copy shall be mailed by the auditor
15 to the clerk of the county court of the county in which
16 the real estate is situated, who, after making any neces-
17 sary changes in his record of delinquent lands, shall note
18 the fact of redemption on such record, and shall record
19 the certificate in a separate volume provided for the
20 purpose.

21 The fee for issuing the certificate of redemption shall
22 be one dollar if the total of taxes, interest and charges
23 due is twenty dollars or less; three dollars if such total
24 is more than twenty dollars and less than one hundred
25 dollars; and five dollars if such total is one hundred dol-
26 lars or more. All such fees collected by the auditor shall
27 be paid by him into the special operating fund provided
28 by the following article for the land department in his
29 office.

30 All certificates of redemption issued by the auditor in

31 each year shall be numbered consecutively and shall be
32 filed by the clerk of the county court in numerical order.
33 Reference to the year and number of the certificate shall
34 be included in the notation of redemption required of
35 the clerk of the county court. No fee shall be charged
36 by the clerk for any recordation, filing or notation required
37 by this section.

Sec. 10. *Lien of Person Redeeming Interest of Another;*
2 *Record.*—Any person redeeming an interest of another
3 shall be subrogated to the lien of the state on such inter-
4 est. He shall lose his right to the lien, however, unless
5 within thirty days after payment he shall file with the
6 the clerk of the county court his claim in writing against
7 the owner of such interest, together with a reference by
8 number to the certificate of redemption sent by the auditor
9 to the clerk, as provided in the preceding section. The
10 clerk shall docket the claim on the judgment lien docket
11 in his office and properly index the same. Such lien may
12 be enforced as other judgment liens are enforced.

Sec. 11. *Revaluation and Reclassification at Request*
2 *of Auditor or Person Redeeming.*—The auditor, or the

3 person redeeming, if dissatisfied with the valuation and
4 classification which by section eight of this article are re-
5 quired to be used as the basis for computation by the
6 auditor of the amount necessary for redemption, may
7 request a revaluation or reclassification of the property
8 for any year or years since the sale. Such request must
9 be made to the assessor of the county in which the prop-
10 erty is situated, who shall pass upon the request. If,
11 because of damage to the property or the making of im-
12 provements thereon, or because of a general change in
13 property values in the county, or for any other reason, it
14 shall appear that the valuation complained of would have
15 been too high or too low for that year, then the assessor
16 shall place a new valuation thereon. Such revaluation
17 shall be made in accordance with the rule prescribed by
18 section one, article three, chapter eleven of this code, so
19 that the new valuation shall correspond to the values
20 placed by the assessor on other property in the county for
21 that year. If it shall appear that the classification com-
22 plained of failed to conform to the classification pre-

23 scribed in section five, article eight, chapter eleven of this
24 code, the assessor shall make the proper reclassification.
25 Any revaluation or reclassification made by the assessor
26 as provided in this section must be submitted to the
27 county court for review and approval. For this purpose
28 the county court shall act as a board of review and
29 equalization at any regular or special session throughout
30 the year. The decision of the county court may be re-
31 viewed by the circuit court as provided in section
32 twenty-five, article three, chapter eleven of this code.
33 All new valuations and reclassifications when approved
34 by the county court shall be certified by the assessor to
35 the auditor, and shall be used by him in computing the
36 amount necessary for redemption.

Sec. 12. Compulsory Redemption at Election of Auditor.

2 —The auditor, if he so elects, may compel redemption
3 of any real estate purchased by or forfeited to the state.
4 In order to collect from the former owner an amount
5 sufficient for redemption, he may use any of the methods
6 provided in article two of this chapter, for collection of
7 taxes by the sheriff.

Sec. 13. *Redemption of Part of a Tract or Lot; Survey.*—Any person having a right to redeem the whole of any tract of land, or of any town or city lot, purchased by or forfeited to the state, who desires to redeem only a part of such tract or lot, must have the part he desires to redeem surveyed and laid off by metes and bounds, and must secure from the surveyor a plat showing the whole tract or lot as well as the part to be redeemed. The part to be redeemed shall be in one body the length of which shall, whenever practicable, be not more than twice the breadth. He must also secure from the surveyor a description of the part to be redeemed and an affidavit by the surveyor that the plat and description and the quantity of land mentioned therein is, as he verily believes, correct. The person desiring to redeem must then present the plat and description, with the affidavit attached, to the assessor who, on the basis of the information contained therein, shall prepare a certificate setting forth the present value of the entire tract or lot, and the value at which both the part to be redeemed and the remainder of the tract or lot would probably be assessed in the future.

22 Upon presentation to the auditor of the assessor's certi-
23 ficate and the plat, description and affidavit, the auditor
24 shall determine whether in his opinion the state as
25 owner of the whole tract or lot would be prejudiced by
26 such partial redemption. If he is of opinion that the re-
27 demption should be allowed, he shall ascertain what
28 proportion of the amount necessary for redemption of the
29 whole tract is properly chargeable to the part redeemed.
30 Upon redemption, the auditor shall enclose the plat, de-
31 scription and affidavit with the copy of the certificate of
32 redemption which he is required to send to the clerk of
33 the county court. Such plat, description and affidavit shall
34 be recorded by the clerk in the deed book when he records
35 the certificate of redemption.

36 All surveys mentioned in this and the following article
37 shall be made by the county surveyor, or if he is inter-
38 ested or is unavailable, then by some other competent
39 surveyor.

Sec. 14. *Auditor to Report Redemptions to County
2 Officers; Disposition of Redemption Money; Credit of
3 State Taxes to Proper Fund.*—The auditor shall report

4 monthly to the sheriff, the assessor and the clerk of the
5 county court of each county all land in such county which
6 was redeemed in his office during the preceding month.
7 The assessor shall enter the fact of such redemption in
8 the land book in his office. The clerk shall file and
9 index the report in a separate volume provided for the
10 purpose.

11 Between October fifteenth and November first of each
12 year, the auditor shall report to the sheriff of each county
13 for inclusion in his next November delinquent list all
14 tracts of land redeemed from the auditor, which after
15 purchase by the state have been reported to him by the
16 sheriff as suspended from sale, if the taxes for the year
17 or years of suspension were not collected by the auditor.
18 The sheriff shall be charged with such taxes and shall
19 account for them as is required in the case of current
20 taxes. Instead of making this report, the auditor may
21 collect the taxes due for the year or years of suspension.
22 Upon collection thereof he shall issue a second certificate
23 of redemption, and such certificate shall be a release of
24 the state's lien for such taxes.

25 The auditor shall each month draw his warrant upon
26 the treasury, payable to the sheriff of each county, for
27 that part of the taxes, interest and charges, received by
28 him upon the redemption of the property included in
29 his report, which was owing to any of the taxing units
30 in such county. The sheriff shall account for and pay
31 over such money as if it had been paid to him for redemp-
32 tion before sale.

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

Sec. 15. Purchase by Individual at Tax Sale; Receipt.—

2 If any person, being the highest bidder present at the
3 sale provided for in section four of this article, bids and
4 pays at least the amount of taxes, interest and charges
5 for which any real estate is offered for sale, the sheriff
6 shall issue to him a receipt for the purchase money. The
7 heading of the receipt shall be:

8 Memorandum of real estate sold in the county of.....
9on this.....day of....., 19.....,
10 for the nonpayment of taxes charged thereon for the year
11 (or years) 19.....

12 Except for the heading, the tax commissioner shall pre-
13 scribe the form of the receipt.

Sec. 16. *Co-owner Free to Purchase at Tax Sale; Pur-*
2 *chase by Sheriff and Clerk of the County Court Pro-*
3 *hibited.*—Any co-owner, except a co-parcener, in the ab-
4 sence of satisfactory proof of a fiduciary relationship, shall
5 be entitled to acquire by tax purchase for his own account
6 the interest of any, or all, of his co-owners in any real
7 estate, without being required to hold such interest or
8 interests under any constructive trust. There shall be a
9 prima facie presumption against the existence of any such
10 constructive trust.

11 No sheriff, clerk of the county court, nor deputy of
12 either, shall directly or indirectly become the purchaser,
13 or be interested in the purchase, of any real estate at the
14 tax sale. Any such officer so purchasing shall forfeit one
15 hundred dollars for each offense. The sale of any real
16 estate to one of the officers named in this section shall be
17 voidable, at the instance of any person having the right
18 to redeem, until such real estate reaches the hands of a
19 bona fide purchaser.

Sec. 17. *Redemption from Purchase by Individual; Receipt; List of Redemptions; Lien.*—After the sale, the former owner of, or any other person who was entitled to pay the taxes on, any real estate purchased by an individual, may redeem at any time before June first of the second year following the sale. In order to redeem, he must pay to the purchaser, his heirs or assigns, the following amounts: (1) The amount of purchase money paid to the sheriff, with interest at the rate of twelve percent per annum from the date of sale. (2) All other taxes thereon, which have since been paid by the purchaser, his heirs or assigns, with interest at the rate of twelve percent per annum from the date of payment. (3) Such additional expenses as may have been incurred in procuring the survey or report provided for in sections twenty-one and twenty-two of this article and in preparing the list of those to be served with notice and giving the notice required by sections twenty-three and twenty-four of this article.

The person redeeming shall be given duplicate receipts for the payment. If the purchaser, his heirs or assigns,

22 shall refuse or fail to sign and give such receipts when
23 lawfully required to do so, he or they shall pay to the per-
24 son redeeming twice the amount of such payment, which
25 may be recovered by action on the case in any court of
26 competent jurisdiction. One of such receipts shall be filed
27 with the clerk of the county court on or before the day on
28 which the right to redeem expires. The clerk shall endorse
29 on both receipts the fact and time of such filing, and shall
30 note the fact of redemption on his record of delinquent
31 lands. If the receipt is not filed on or before such date, the
32 redemption shall be void as to creditors and subsequent
33 bona fide purchasers from the purchaser, his heirs or as-
34 signs. If, however, the receipt is filed after the date re-
35 quired, it shall operate as notice from and after the date
36 of filing. In June of each year the clerk of the county
37 court shall prepare and certify to the auditor a list of all
38 redemptions from sales to individual purchasers, which
39 have not been included in any former list.

40 Any person who, by reason of the fact that no provision
41 is made for partial redemption of real estate purchased
42 by an individual, is compelled in order to protect him-

43 self to redeem all of such real estate when it belongs in
44 whole or in part to some other person, shall have a lien
45 on the interest of such other person for the amount
46 paid to redeem such interest. He shall lose his right to
47 the lien, however, unless within thirty days after pay-
48 ment he shall file with the clerk of the county court his
49 claim in writing against the owner of such interest, to-
50 gether with the receipt provided for in this or the fol-
51 lowing section. The clerk shall docket the claim on the
52 judgment lien docket in his office and properly index the
53 same. Such lien may be enforced as other judgment liens
54 are enforced.

Sec. 18. *Payment of Redemption Money to Clerk.*—

2 Whenever the purchaser, his heirs or assigns shall refuse
3 to accept payment of the redemption money, or cannot be
4 found, or does not reside in the county, payment may be
5 made to the clerk of the county court at any time before
6 the right to redeem expires. The clerk shall issue dupli-
7 cate receipts, one to be filed by him in his office, and shall
8 note the fact of redemption on his record of delinquent
9 lands.

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Sec. 19. *Contest of Redemption by Payment to Clerk.*—

2 If the purchaser, his heirs or assigns, dispute the right to
3 redeem of the person making payment to the clerk as
4 provided in the preceding section, he or they may,
5 within one year after payment to the clerk, give to such
6 person, or to his heirs, or personal representative, notice
7 in writing of such dispute, requiring him or them to ap-
8 pear before the circuit court of the county, on a day to
9 be named in the notice, and prove that the person who
10 made the payment had a right to redeem. Such notice
11 shall be served at least ten days before the day on which it
12 is returnable, and if the party served fails to appear, or
13 if he appears and fails to prove the right to redeem, the
14 court shall enter an order cancelling the redemption and,
15 if the period of redemption has then expired and all other
16 conditions of the following section have been complied
17 with, directing the clerk to execute and deliver to the
18 purchaser, or his heirs or assigns, a deed for the property.
19 If the other conditions have not been complied with, the
20 court may enter an order allowing reasonable additional
21 time for compliance, authorizing, as a substitute for the

22 notice required by section twenty-three, preparation and
23 service of a notice to redeem within ninety days, and di-
24 recting the clerk to execute the deed upon the expiration
25 of such period of redemption. Any deed executed pur-
26 suant to an order of the court provided for in this section
27 shall have the same force and effect as if executed and
28 delivered within the time specified in section twenty-five
29 of this article. The clerk of the county court shall enter
30 such order on his record of delinquent lands and shall
31 return the money to the person who made the payment,
32 or to his personal representative. If, however, the de-
33 cision is that such person had the right to redeem, the
34 clerk shall pay the money to the purchaser, or his heirs
35 or assigns.

36 If the purchaser, his heirs or assigns, admit the right to
37 redeem but claim that the sum paid the clerk was in-
38 sufficient, he or they may upon similar notice have the
39 sufficiency of the payment determined by the court. If
40 the person redeeming fails to appear or if the decision
41 is that the sum paid was insufficient, the court shall, un-
42 less such additional amount as may be found to be due

43 is paid within thirty days, enter an order cancelling the
44 redemption, and shall also enter such further appropriate
45 orders as are authorized to be entered under the pre-
46 ceding paragraph. If the sum is found to have been
47 sufficient, the court shall make such orders as are appro-
48 priate when the right to redeem is sustained under the
49 preceding paragraph.

Sec. 20. *What Purchaser Must Do Before He Can Se-
2 cure Deed.*—At any time after January first of the second
3 year following the sale, and on or before March first of
4 the same year, the purchaser, his heirs or assigns, in or-
5 der to secure a deed for the real estate purchased, must:
6 (1) secure and file with the clerk of the county court the
7 survey or report provided for in sections twenty-one and
8 twenty-two of this article; (2) examine the title in order
9 to prepare a list of those to be served with notice to re-
10 deem and request the clerk to prepare and serve the no-
11 tice as provided in sections twenty-three and twenty-four
12 of this article; and (3) deposit, or offer to deposit, with
13 the clerk a sum sufficient to cover the cost of preparing
14 and serving the notice. For failure to meet these require-

15 ments, the purchaser shall lose all the benefits of his
16 purchase.

17 If the person requesting preparation and service of the
18 notice is an assignee of the purchaser, he shall, at the
19 time of the request, file with the clerk a written assign-
20 ment to him of the purchaser's rights, executed, acknowl-
21 edged and certified in the manner required to make a valid
22 deed.

Sec. 21. *Report or Survey of Real Estate Purchased.*—

2 Except as provided in the following section, an individual
3 purchaser at the tax sale, his heirs or assigns, must at his
4 or their expense, have the county surveyor make either a
5 report or a survey of the real estate purchased. The re-
6 port shall contain such a description of the property as
7 will identify it, and shall specify the metes and bounds
8 thereof, if ascertainable without a survey, unless there is
9 a recorded plat of such property to which reference can
10 be made. If a survey is preferred, a plat of the property
11 and description thereof by metes and bounds must be ob-
12 tained from the surveyor. If the sale was of an undivided
13 interest in any property, the report or survey shall be of

14 the entire property. The report or the plat and descrip-
15 tion must be filed with the clerk of the county court
16 within the time specified in section twenty of this article.
17 The fact and time of such filing shall be endorsed by the
18 clerk on the report or on the plat and description and
19 shall be noted by him on his record of delinquent lands.

Sec. 22. *Survey When Part of Tract Is Purchased.*—

2 Whenever only part of a tract is sold for the taxes due on
3 the entire tract, the purchaser of such part, his heirs or
4 assigns, must, at his or their expense, have the part so
5 purchased surveyed by the county surveyor and laid off
6 by metes and bounds. The area so laid off shall be
7 bounded in part by some one or more of the lines of the
8 tract, to be selected by the purchaser, his heirs or assigns.
9 The part chosen shall not include any of the improve-
10 ments on the tract, if this can be avoided, and shall be
11 in one body, the length of which shall, whenever prac-
12 ticable, be not more than twice the breadth. A plat of
13 the part so laid off and a description thereof, to be pre-
14 pared by the surveyor, must be filed with the clerk of
15 the county court within the time specified in section

16 twenty of this article. The fact and time of such filing
 17 shall be endorsed by the clerk on the plat and description
 18 and shall be noted by him on his record of delinquent
 19 lands.

Sec. 23. *Notice to Redeem.*—Whenever the provisions
 2 of section twenty of this article have been complied with,
 3 the clerk of the county court shall thereupon prepare a
 4 notice in form or effect as follows:
 5 To.....
 6 You will take notice that....., the pur-
 7 chaser (or....., the assignee, heir or devisee of
 8, the purchaser) of the following real
 9 estate,, (here describe the real estate
 10 sold) located in, (here name the city,
 11 town or village in which the real estate is situated or, if
 12 not within a city, town or village, give the district and a
 13 general description) which was returned delinquent in
 14 the name of, and was sold by the sheriff
 15 of..... County at the sale for delinquent
 16 taxes made on the.....day of, 19....., has re-
 17 quested that you be notified that a deed for such real es-

18 tate will be made to him on or after the first day of June,
 19 19....., as provided by law, unless before that day you
 20 redeem such real estate. The amount you will have to
 21 pay to redeem on the last day, May thirty-first, will be
 22 as follows:

23 Amount paid sheriff at sale, with interest to May
 24 31st \$.....
 25 Amount of taxes paid on the property, since
 26 the sale, with interest to May 31st..... \$.....
 27 Amount paid for survey and report..... \$.....
 28 Amount paid for preparation of list of those to be served,
 29 and for preparation and service of the notice\$.....
 30 Total..... \$.....

31 You may redeem at any time before May thirty-first by
 32 paying the above total less any unearned interest.

33 Given under my hand this.....day of....., 19.....

34 _____

35 Clerk of the County Court of

36 _____County.

37 State of West Virginia

38 The clerk for his service in preparing the notice shall

39 receive a fee of fifty cents for the original and twenty-five
40 cents for each copy required.

Sec. 24. *Service of Notice.*—As soon as the clerk has
2 prepared the notice provided for in the preceding section,
3 he shall cause it to be served upon the following persons:
4 (1) the person in whose name the real estate was re-
5 turned delinquent and sold, or, in case of his death, his
6 heir or devisee and his personal representative, if such
7 there be; (2) any grantee of such person, or his heir or
8 devisee and his personal representative, if such there
9 be, if a conveyance of such real estate is recorded or filed
10 for record in the office of the clerk; (3) any person having
11 a lien upon such real estate disclosed by any paper re-
12 corded in the clerk's office; and (4) any other person
13 having such an interest in the property as would entitle
14 him to redeem, if the existence of such interest appears
15 of record.

16 The notice shall be personally served upon all such
17 persons residing or found in the state in the manner pro-
18 vided for serving process commencing a suit, on or before
19 the fifteenth day of March following the request for such

20 notice. If any person entitled to notice is a nonresident of
21 the state or if his residence is unknown to the clerk and
22 cannot by due diligence be discovered, the notice shall be
23 served by publication once a week for three successive
24 weeks in some newspaper published in the county in
25 which such real estate is located, or if no newspaper is
26 published in the county, then in some newspaper of
27 general circulation in the county. If service by publica-
28 tion is necessary, publication shall be commenced within
29 one week after March fifteenth, and a copy of the notice
30 shall at the same time be sent by registered mail, return
31 receipt requested, to the last known address of the per-
32 son served. The return of service of such notice and the
33 affidavit of publication, if any, shall be in the manner
34 provided for process generally and shall be filed and
35 preserved by the clerk in his office, together with any re-
36 turn receipts for notices sent by registered mail.

Sec. 25. *Deed to Purchaser; Record.*—If the real estate
2 described in the notice is not redeemed within the time
3 specified therein, the clerk of the county court shall
4 thereupon make and deliver to the person entitled thereto

5 a deed for such real estate in form or effect as follows:

6 This deed made this.....day of.....,19....., by and
7 between....., clerk of the county court of
8County, West Virginia, (or by and between
9, a commissioner appointed by the Circuit
10 Court of.....County, West Virginia, or by
11 and between....., a commissioner appointed
12 by the Judge of the Circuit Court of.....County,
13 West Virginia, in vacation,) grantor, and.....,
14 purchaser, (or....., heir, devisee or assignee of
15, purchaser,) grantee, witnesseth, that
16 Whereas, in pursuance of the statutes in such case made
17 and provided,....., sheriff of.....County,
18 (or....., deputy for....., Sheriff
19 of.....County, or....., collector
20 of.....County,) did, in the month of.....,
21 in the year 19....., sell the real estate, hereinafter men-
22 tioned and described, for the taxes delinquent thereon
23 for the year (or years) 19....., and....., (here in-
24 sert name of purchaser) for the sum of \$....., that
25 being the amount of purchase money paid to the sheriff,

26 did become the purchaser of such real estate (or of.....
27 acres, part of the tract or land, or of an undivided.....
28 interest in such real estate) which was returned delin-
29 quent in the name of.....; and

30 Whereas, the report or the plat and description re-
31 quired by law has been duly filed with the clerk of the
32 county court; and

33 Whereas, the clerk of the county court has caused the
34 notice to redeem to be served on all persons required by
35 law to be served therewith; and

36 Whereas, the real estate so purchased has not been re-
37 deemed in the manner provided by law and the time for
38 redemption set in such notice has expired;

39 Now, therefore, the grantor, for and in consideration
40 of the premises and in pursuance of the statute, doth
41 grant unto....., grantee, his heirs and as-
42 signs forever, the real estate so purchased, situate in the
43 county of....., bounded and described as fol-

44 lows:.....

45 Witness the following signature:

46 _____

47 Clerk of the County Court of

48 _____County

49 Except when ordered to do so, as provided in sections
50 nineteen and twenty-six of this article, no clerk of the
51 county court shall execute and deliver such a deed more
52 than six months after the purchaser's right to the deed
53 accrued.

54 For the execution of the deed and for all the recording
55 required by this section, a fee of five dollars shall be
56 charged, to be paid by the grantee upon delivery of the
57 deed. The deed, when duly acknowledged or proven,
58 shall be recorded by the clerk of the county court in the
59 deed book in his office, together with the report or plat
60 and description, the assignment from the purchaser, if
61 one was made, the notice to redeem, the return of service
62 of such notice, the affidavit of publication, if the notice
63 was served by publication, and any return receipts for
64 notices sent by registered mail.

Sec. 26. *Compelling Service of Notice or Execution of*

2 *Deed.*—If the clerk of the county court fails or refuses to
3 prepare and serve the notice to redeem as required in
4 sections twenty-three and twenty-four of this article, the
5 person requesting the notice may, at any time within
6 two weeks after such failure or refusal, apply by petition
7 to the circuit court of the county, or to the judge thereof
8 in vacation, for an order compelling the clerk to prepare
9 and serve the notice or appointing a commissioner to do
10 so. If the person requesting the notice fails to make such
11 application within the time allowed, he shall lose his
12 right to the notice, but his rights against the clerk under
13 the provisions of section forty-two of this article shall not
14 be affected. Notice given pursuant to an order of the
15 court or judge shall be as valid for all purposes as if
16 given within the time required by section twenty-four
17 of this article.

18 If the clerk fails or refuses to execute the deed as re-
19 quired in the preceding section, the person requesting
20 the deed may, at any time after such failure or refusal,
21 but not more than six months after his right to the deed

22 accrued, apply by petition to the circuit court of the
23 county, or to the judge thereof in vacation, for an order
24 compelling the clerk to execute the deed or appointing a
25 commissioner to do so. If the person requesting the deed
26 fails to make such application within the time allowed, he
27 shall lose his right to the deed, but his rights against the
28 clerk under the provisions of section forty-two of this ar-
29 ticle shall not be affected. Any deed executed pursuant
30 to an order of the court or judge shall have the same
31 force and effect as if executed and delivered by the clerk
32 within the time specified in the preceding section.

33 Ten days' written notice of every such application must
34 be given to the clerk. If, upon the hearing of such applica-
35 tion, the court or judge is of the opinion that the appli-
36 cant is not entitled to the notice or deed requested, the
37 petition shall be dismissed at his costs; but if the court or
38 judge is of the opinion that he is entitled to such notice or
39 deed, then, upon his deposit with the clerk of the circuit
40 court of a sum sufficient to cover the costs of preparing
41 and serving the notice, unless such a deposit has al-
42 ready been made with the clerk of the county court, an

43 order shall be made by the court or judge directing the
44 clerk to prepare and serve the notice or execute the deed,
45 or appointing a commissioner for the purpose, as the
46 court or judge shall determine. The order, if made in
47 vacation, shall be filed with the clerk of the court and
48 entered by him in the chancery order book. If it appear
49 to the court or judge that the failure or refusal of the
50 clerk was without reasonable cause, judgment shall be
51 given against him for the costs of the proceedings, other-
52 wise the costs shall be paid by the applicant.

53 Any commissioner appointed under the provisions of
54 this section shall be subject to the same liabilities as are
55 provided for the clerk. For the preparation of the notice
56 to redeem, he shall be entitled to the same fee as is pro-
57 vided for the clerk. For the execution of the deed, he
58 shall also be entitled to a fee of five dollars, to be paid by
59 the grantee upon delivery of the deed.

Sec. 27. *One Deed for Separate Purchases.*—Whenever
2 one purchaser at the tax sale has purchased two or more
3 pieces of real estate, or undivided interests therein,
4 charged to the same person, or persons, with taxes for the

5 same year, or years, he, his heirs or assigns, may request
 6 the clerk of the county court to execute a separate deed
 7 for each piece of real estate, or undivided interest therein,
 8 or separate deeds for some and one deed for the re-
 9 mainder, or one deed for all, as he or they may prefer.
 10 Every deed for two or more pieces of real estate, or un-
 11 divided interests therein, shall describe each piece of real
 12 ~~S~~state and each undivided interest separately.

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Sec. 28. *Title Acquired by Individual Purchaser.*—

2 Whenever the purchaser of any real estate sold at a tax
 3 sale, his heirs or assigns, shall have obtained a deed for
 4 such real estate from the clerk of the county court or from
 5 a commissioner appointed to make the deed, he or they
 6 shall thereby acquire all such right, title and interest, in
 7 and to the real estate, as was, at the time of the execu-
 8 tion and delivery of the deed, vested in or held by any
 9 person who was entitled to redeem, unless such person is
 10 one who, being required by law to have his interest
 11 separately assessed and taxed, has done so and has paid
 12 all the taxes due thereon, or unless the rights of such
 13 person are expressly saved by the provisions of section

14 sixteen, thirty, thirty-one, thirty-two or thirty-five of
15 this article. The tax deed shall be conclusive evidence of
16 the acquisition of such title. The title so acquired shall re-
17 late back to January first of the year in which the taxes,
18 for nonpayment of which the real estate was sold, were
19 assessed.

Sec. 29. *Effect of Irregularity on Title Acquired by Pur-*
2 *chaser.*—No irregularity, error or mistake in respect to
3 any step in the procedure leading up to and including de-
4 livery of the tax deed shall invalidate the title acquired
5 by the purchaser unless such irregularity, error or mistake
6 is, by the provisions of section sixteen, thirty, thirty-one,
7 or thirty-two of this article, expressly made ground for
8 instituting a suit to set aside the sale or the deed.

9 This and the preceding section are enacted in further-
10 ance of the purpose and policy set forth in section one
11 of this article.

Sec. 30. *Right to Set Aside Sale or Deed When All*
2 *Taxes Paid Before Sale.*—Any owner of real estate which
3 was sold for nonpayment of taxes, when all taxes thereon
4 had in fact been paid before the sale, his heirs and as-

5 signs, or the person who paid the taxes may, on or before
6 December thirty-first of the third year following the sale,
7 whether the sale was to an individual or to the state,
8 institute a suit in equity to set aside the sale and to en-
9 join the proper official from taking any further steps in
10 the procedure provided in this and the following article,
11 or, if a deed has been delivered to the purchaser, to set
12 aside the deed. If such suit is instituted by or on behalf
13 of the owner of an undivided interest which was in-
14 cluded in a group assessment but which was separately
15 redeemed as provided in section eighteen, article two of
16 this chapter, the sale or the deed shall be set aside only
17 in so far as it affects his interest.

Sec. 31. Right to Set Aside Deed Improperly Obtained.—

2 Whenever the clerk of the county court has delivered a
3 deed to the purchaser after the time specified in section
4 twenty-five of this article, or, within that time, has de-
5 livered a deed to a purchaser who was not entitled thereto
6 either because of his failure to meet the requirements of
7 section twenty of this article or because the property
8 conveyed had been redeemed, the owner of such prop-

9 erty, his heirs and assigns, or the person who redeemed
10 the property may, on or before December thirty-first of
11 the third year following the sale, institute a suit in equity
12 to set aside the deed. No deed shall be set aside under
13 the provisions of this section, except in the case of re-
14 demption, until payment has been made or tendered to
15 the purchaser, or his heirs or assigns, of the amount
16 which would have been required for redemption, together
17 with any taxes which have been paid on the property
18 since delivery of the deed, with interest at the rate of
19 twelve percent per annum.

Sec. 32. *Right to Set Aside Deed When One Entitled to*
2 *Notice Not Notified.*—If any person entitled to be notified
3 under the provisions of section twenty-four of this ar-
4 ticle is not served with the notice as therein required,
5 and does not have actual knowledge that such notice has
6 been given to others in time to protect his interests by
7 redeeming the property, he, his heirs and assigns, may,
8 on or before December thirty-first of the third year fol-
9 lowing the sale, institute a suit in equity to set aside the
10 deed. No deed shall be set aside under the provisions of

11 this section until payment has been made or tendered to
12 the purchaser, or his heirs or assigns, of the amount
13 which would have been required for redemption, together
14 with any taxes which have been paid on the property
15 since delivery of the deed, with interest at the rate of
16 twelve percent per annum.

Sec. 33. *On Whose Behalf Suits Instituted; Decree
2 When Deed Set Aside.*—Any suit instituted under the
3 provisions of the three preceding sections by a person
4 other than the former owner, his heirs or assigns, must
5 be brought on his or their behalf. Whenever the deed in
6 such case is set aside, the decree shall be that all the right,
7 title and interest of the former owner, his heirs or as-
8 signs, is revested in him or them.

Sec. 34. *Subsequent Tax Sale of Real Estate Purchased
2 by Individual.*—Whenever any real estate has been sold
3 at a tax sale to an individual purchaser, and the taxes on
4 such real estate for the year of the sale or for any sub-
5 sequent year have become delinquent, the sheriff shall
6 include the real estate in the delinquent lists of the proper
7 year and shall again sell the whole or a part thereof for

8 taxes as if the former sale had not occurred. The pur-
9 chaser at the first sale may, however, prevent the second
10 sale by paying the amount due, or he may redeem from
11 the second sale. If the purchaser bought only a part of
12 the land at the first sale, he may prevent a second sale
13 thereof by paying the proportionate part of the taxes
14 assessed against the whole which are chargeable to the
15 part purchased.

Sec. 35. *Redemption by Persons under Disability from*
2 *Purchase by Individual.*—In addition to and notwith-
3 standing any other provisions of this article, any infant
4 or insane person whose real estate was, during such dis-
5 ability, sold at a tax sale to an individual purchaser, may
6 redeem such real estate by paying to the purchaser, or
7 his heirs or assigns, before the expiration of one year
8 after removal of the disability, but in no event more than
9 twenty years after the deed was obtained, the amount of
10 the purchase money, together with the necessary charges
11 incurred in obtaining the deed, and any taxes paid on the
12 property since the sale, with interest on such items at
13 the rate of six percent per annum from the date each

14 was paid. If such person was the owner of an undivided
15 interest in the real estate sold, he may redeem such in-
16 terest by paying that proportion of the purchase money,
17 charges, taxes and interest chargeable to his interest; but
18 after a deed has been delivered to the purchaser, he shall
19 not have the right to redeem more than his own undivided
20 interest. If improvements have been made on such real
21 estate after the deed was obtained and before the offer
22 to redeem as herein provided, the person redeeming shall
23 pay to the purchaser, or his heirs or assigns, the value
24 of the improvements at the time of such offer, after de-
25 ducting therefrom the value of the use of such real
26 estate without the improvements, from the date of the
27 deed to the date of the offer. Upon payment or tender
28 of payment, the purchaser, his heirs or assigns, shall, at
29 the expense of the person redeeming, convey to him by
30 quitclaim deed the real estate so redeemed.

31 One entitled to redeem under the provisions of this
32 section may, if he is unable or is not willing to pay for
33 the improvements made by the purchaser, elect to re-
34 linquish his interest in the property. If he so elects, he

35 shall be entitled to an amount equal to the estimated
36 present value of the land without the improvements less
37 what he would have had to pay to redeem the land had
38 no improvements been made. Upon payment to him of
39 such amount, he shall by quitclaim deed convey the land
40 to the purchaser, his heirs or assigns.

41 If in any case provided for in this section the parties
42 cannot agree on the amount to be paid, any of them may
43 upon ten days' notice in writing to the other, or others,
44 apply by petition, to the circuit court of the county in
45 which the real estate is situated, or to the judge thereof
46 in vacation, to have the matter referred to a commis-
47 sioner to ascertain the proper amount to be paid. Upon
48 confirmation by the court or judge of the report of the
49 commissioner, and upon payment or tender of the
50 amount, if any, so ascertained to be due, the person to
51 whom payment or tender was made, shall execute the
52 quitclaim deed as provided above. In the event of his re-
53 fusal to do so the court, or judge, may appoint a commis-
54 sioner to execute the deed.

55 If there is a refusal to execute the deed in any case in

56 which there was no dispute as to the amount necessary
57 for redemption, the person entitled to the deed may, upon
58 ten days' notice in writing to the other party or parties,
59 apply by petition to the circuit court, or to the judge
60 thereof in vacation, for the appointment of a commis-
61 sioner to execute the deed.

Sec. 36. *Sheriff's List of Sales, Suspensions and Redemp-*
2 *tions; Oath.*—As soon as the sale provided for in section
3 four of this article has been completed, the sheriff shall
4 prepare a list of all delinquent real estate purchased at
5 the sale, or suspended from sale, or redeemed before sale.
6 The heading of the list shall be in form or effect as fol-
7 lows:

8 List of real estate in the county of _____,
9 returned delinquent for nonpayment of taxes thereon for
10 the year (or years) 19____, and sold in the month (or
11 months) of _____, 19____, or suspended from
12 sale, or redeemed before sale.

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

17 I, _____, sheriff (or deputy sheriff or
18 collector) of the county of _____, do swear
19 that the above list contains a true account of all the real
20 estate within my county returned delinquent for nonpay-
21 ment of taxes thereon for the year (or years) 19_____,
22 which was sold by me or which was suspended from sale
23 or redeemed before sale, and that I am not now, nor have
24 I at any time been, directly or indirectly interested in the
25 purchase of any such real estate.

26 Except for the heading and the oath, the tax commis-
27 sioner shall prescribe the form of the list.

Sec. 37. *Sheriff to Account for Proceeds.*—The sheriff
2 shall account for the proceeds of all sales and redemptions
3 included in such list in the same way he accounts for
4 other taxes collected by him, except that if the purchase
5 money paid for any property sold is in excess of the
6 amount of taxes, interest and charges due thereon, the
7 surplus shall be paid to the person or persons charged
8 with the taxes. All real estate included in the first de-
9 linquent list sent to the auditor, and not accounted for
10 in the list of sales, suspensions and redemptions, shall be

11 deemed to have been redeemed before sale, and the taxes,
12 interest and charges due thereon shall be accounted for
13 by the sheriff as if they had been received by him before
14 the sale.

Sec. 38. *Return of List of Sales, Suspensions and Re-*
2 *demptions.*—Within one month after completion of the
3 sale, the sheriff shall deliver the original list of sales,
4 suspensions and redemptions, with a copy thereof, to the
5 clerk of the county court. The clerk shall bind the origi-
6 nal of such list in a permanent book to be kept for the
7 purpose in his office, and shall note each sale and sus-
8 pension, and each redemption not previously noted, on
9 his record of delinquent lands. The clerk, within ten
10 days after delivery of the list to him, shall transmit the
11 copy to the auditor, who shall note each sale, suspension
12 and redemption on the record of delinquent lands kept in
13 his office.

Sec. 39. *Penalty for Failure to Make Such Return;*
2 *Mandamus.*—Any sheriff who fails to prepare and return
3 the list of sales, suspensions and redemptions within the
4 time required by the preceding section, shall forfeit not

5 less than fifty nor more than five hundred dollars, for the
6 benefit of the general school fund, to be recovered by the
7 auditor or by any taxpayer of the county on motion in a
8 court of competent jurisdiction. Upon the petition of any
9 person interested, the sheriff may be compelled by man-
10 damus to make out and return such list and the proceed-
11 ings thereon shall be at his cost.

Sec. 40. *Amendment of Such List.*—If the sheriff shall
2 make any error or omission in the list of sales, suspen-
3 sions and redemptions returned to the clerk of the county
4 court, he or any person interested may, within six months
5 after the sale, apply by petition to the county court for
6 an order permitting or requiring amendment of the list.
7 Any person who might be prejudiced by the proposed
8 amendment must, if found within the county, be given
9 at least ten days' notice of such application. Upon proof
10 of the error or mistake the court shall make an order per-
11 mitting or requiring the sheriff to file an amended list
12 with the clerk of the court. The sheriff shall thereupon
13 prepare and deliver to the clerk of the court the amended
14 list and a copy thereof, with a copy of the order of the

15 court permitting or requiring it to be filed attached to
 16 the list and to the copy. The clerk shall substitute the
 17 original of the amended list for the list already in his
 18 office, and make the necessary corrections on his record
 19 of delinquent lands. The clerk shall transmit the copy of
 20 the amended list to the auditor who shall note the correc-
 21 tions on his record of delinquent lands.

Sec. 41. *Publication by Sheriff of Sales List.*—Within
 2 one month after completion of the sale, the sheriff shall
 3 prepare and publish for two successive weeks in two
 4 newspapers of opposite politics, if such there be in the
 5 county, otherwise in some newspaper published in the
 6 county, a list of all the sales made by him, in form or
 7 effect as follows:

8 List of real estate sold in the county of.....,
 9 in the month (or months) of....., 19___,
 10 for nonpayment of taxes thereon for the year (or years)
 11 19....., and purchased by individuals or by the State of
 12 West Virginia:

13 14 15 16 17	Name of Person Charged with Taxes	Local Descrip- tion of Lands	Quantity of Land Charged	Quantity of Land Sold	Name of Purchaser	Whole Amount Paid by Purchaser

18 The owner of any real estate listed above, or any other
 19 person entitled to pay the taxes thereon, may, however,
 20 redeem such real estate as provided by law.

21 Given under my hand this day of.....,
 22 19....

23 In addition to the publication required above, the sheriff
 24 shall post a copy of such list at the front door of the court-
 25 house. If no newspaper will publish the list for the com-
 26 pensation provided by law, or if there is no newspaper
 27 published in the county, the sheriff shall also post a
 28 copy of the list at some public place in each magisterial
 29 district in the county. The costs of printing the sales list
 30 shall be paid out of the county treasury. To cover the
 31 costs of preparing, publishing and posting such list, a
 32 charge of two dollars shall be added to the taxes, interest
 33 and charges already due on each item listed.

Sec. 42. Liability of Officer Failing to Perform Duty;

2 *Penalty.*—If any officer mentioned in this article shall
3 fail or refuse to perform any duty required of him, he
4 and the sureties on his official bond shall be liable in an
5 action on the bond for such damages as may be sustained
6 by any person by reason of such failure. In addition to
7 this liability, he shall forfeit not less than twenty-five nor
8 more than one hundred dollars for each failure or refusal,
9 unless a different penalty is imposed by the provisions of
10 this article.

Article 4. Sale of Lands for School Fund.

1 *Section 1. Declaration of Legislative Purpose.*—In fur-
2 therance of the policy declared in section one, article
3 three of this chapter, it is the intent and purpose of the
4 the Legislature to abolish the existing judicial proceed-
5 ing for the sale of land for the school fund, and to substi-
6 tute therefor an administrative ex parte proceeding, thus
7 reverting to the practice originally established and sanc-
8 tioned in this state. The procedure provided for in this
9 article is designed to convey to the purchaser not an
10 original but merely a derivative title.

Sec. 2. *Forfeiture of Lands for Nonentry.*—It is the
2 duty of each owner of land to have his land entered for
3 taxation on the land book of the appropriate county, and
4 to have himself charged with the taxes due thereon. Land
5 which for any five successive years shall not have been
6 so entered and charged, shall by operation of law, with-
7 out any proceedings therefor, be forfeited to the state as
8 provided in section six, article thirteen of the constitu-
9 tion.

Sec. 3. *Lands Subject to Sale Under this Article.*—All
2 lands purchased by the state for nonpayment of taxes
3 or forfeited for nonentry, or escheated, or waste and un-
4 appropriated are subject to sale as provided in this article.

Sec. 4. *State Commissioner of Forfeited and Delinquent*
2 *Lands.*—The state auditor shall, ex officio, be state com-
3 missioner of forfeited and delinquent lands. The term
4 “auditor”, whenever used in this chapter in connection
5 with the subject of delinquent, forfeited, escheated, or
6 waste and unappropriated lands, shall be construed to
7 refer to him as state commissioner of forfeited and delin-
8 quent lands.

9 The auditor is empowered, and it shall be his duty,
10 through the land department in his office, to administer
11 and carry into execution the laws with reference to such
12 lands. The auditor, on behalf of the state, shall have
13 power to hold and manage such lands, and to exercise
14 other powers incident to the general ownership of land.

Sec. 5. *Deputy Commissioners of Forfeited and Delin-*
2 *quent Lands; Compensation; Bond.*—There shall be for
3 each county in the state a deputy commissioner of for-
4 feited and delinquent lands. The auditor shall appoint
5 such deputies as soon as may be after this act takes effect,
6 and shall make new appointments from time to time
7 thereafter whenever vacancies occur, or when in his
8 judgment it is deemed advisable. The auditor may make
9 rules respecting the tenure of deputy commissioners. In
10 the absence of such rules, the deputy for each county
11 shall, so long as he satisfies the requirements of this sec-
12 tion in respect to professional qualifications and bond-
13 ing, continue to act without reappointment until the
14 auditor designates his successor.

15 Appointments shall be limited to persons duly licensed

16 to practice law in the state, and so far as possible shall be
17 made for each county from among attorneys residing and
18 practicing law therein. If, however, there is in the
19 opinion of the auditor no suitable person in a county avail-
20 able for appointment, he shall designate a member of the
21 bar of another county in the same judicial circuit. When-
22 ever in respect to any land the deputy commissioner, in
23 his own judgment or in the opinion of the auditor, is
24 disqualified because of his personal interest, or because
25 of his representation of clients in matters affecting such
26 land, the auditor may appoint a special deputy to deal
27 with that land. All provisions of this article in respect
28 to the rights, duties, liabilities and qualifications of the
29 deputy commissioner shall be applicable to the special
30 deputy.

31 The deputy commissioner shall be subject to the orders
32 and control of the auditor, shall be accountable to him,
33 and shall serve as his local agent within the county. It
34 shall be his duty to do whatever is required of him by the
35 auditor or by the provisions of this article. As compen-
36 sation for his services he shall receive the sum of one

37 dollar for every tract certified to the circuit court of the
38 county of his appointment, and such additional compen-
39 sation and fees as are provided for in this article.

40 To insure the faithful performance of his duties and
41 the payment of any forfeitures incurred, the deputy com-
42 missioner before entering upon his duties shall give a
43 bond, with satisfactory corporate surety, in the penalty
44 of not less than two thousand dollars, nor more than ten
45 thousand dollars, to be fixed by the auditor. The pre-
46 mium for such bond shall be paid by the auditor out of
47 the operating fund for the land department in his office.

Sec. 6. *Auditor's Record of Delinquent Lands.*—The
2 auditor shall prepare and keep in his office a permanent
3 record of all delinquent, forfeited, escheated, and waste
4 and unappropriated lands. The record shall, as to every
5 tract listed, set forth the information available as to
6 quantity, local description, and, except in the case of
7 waste and unappropriated lands, the name of the former
8 owner and the respective dates of nonentry and forfei-
9 ture, or nonpayment and delinquency, or escheat, as the
10 case may be. The record shall be prima facie evidence

11 of all matters required by this section to be set forth
12 therein, including the propriety of the description of
13 lands as delinquent, forfeited, escheated, or waste and
14 unappropriated.

Sec. 7. *Operating Fund for Land Department in Auditor's Office.*—The auditor shall set up a special operating
2 fund for the land department in his office. He shall pay
3 into such fund all redemption fees, all publication or
4 other charges collected by him, if such charges were paid
5 by or were payable to him, and all payments made to him
6 by sheriffs under the provisions of section fifty-one of
7 this article, except such part thereof as represents state
8 taxes and interest received by the sheriff for redemptions
9 after certification and before sale. The fund shall be
10 used by the auditor to pay any sums owing by him to
11 deputy commissioners for services rendered under the
12 provisions of this article, and to pay for the operation
13 and maintenance of the land department in his office.
14 The surplus remaining in the fund at the end of any
15 fiscal year shall be paid by the auditor into the general
16 school fund.
17

Sec. 8. *Officers to Report Lands Subject to Sale.*—

2 Whenever an assessor, or clerk of the county court, or
3 county surveyor learns of the existence within his county
4 of any forfeited land, he shall promptly report that fact
5 to the deputy commissioner for the county, together with
6 his information relating thereto. The county surveyor
7 shall also report all waste and unappropriated lands
8 within his county, except lands lying under the bed of a
9 navigable stream, and shall in his report specify the quan-
10 tity, the local description, and any claims of title thereto.
11 The assessor, as escheator, shall likewise report all lands
12 which escheat to the state. The deputy commissioner
13 shall transmit to the auditor all such reports as upon in-
14 vestigation he finds to be correct.

Sec. 9. *Auditor to Certify List of Lands to be Sold.*—On

2 and after the first day of January, one thousand nine
3 hundred forty-two, and during the month of January each
4 year thereafter, the auditor shall certify to the circuit
5 court of each county a list of all lands in the county sub-
6 ject to sale under this article which have been under his
7 control as state commissioner of forfeited and delinquent

8 lands for at least one year before certification. He shall
9 note the fact of certification on his record of delinquent
10 lands.

11 Each of the four classes of land subject to sale shall be
12 listed separately. The list shall be arranged by districts
13 and, except in the case of waste and unappropriated
14 lands, alphabetically by name of the former owner. The
15 list shall state as to each item listed, the information re-
16 quired by section six of this article to be set forth in the
17 auditor's record of delinquent lands and shall specify as
18 to each tract listed as delinquent or forfeited, the amount
19 of taxes and interest due for each year prior to certifica-
20 tion, the publication and other charges due, with interest,
21 and the total currently due, which total shall, except for
22 the redemption fee, correspond to the sum required for
23 redemption from the auditor on the date of certification.
24 The specification of taxes due shall as to delinquent land
25 commence with those for nonpayment of which it was
26 sold, and as to forfeited land with those properly charge-
27 able to it for the first year of nonentry.
28 The items listed shall be numbered consecutively, and

29 all subsequent orders, entries, applications or proceedings
30 under this article in respect to any item shall refer to
31 its number and to the year of certification. All tracts,
32 lots, or parcels sold to the state as a unit shall be treated
33 by the auditor as a single item for purposes of certifica-
34 tion. Subject to the provisions of this section, the auditor
35 shall prescribe a form for the list and shall provide in
36 such form adequate space to show the subsequent history
37 and final disposition of each item certified.

38 The list shall be made in quadruplicate. The auditor
39 shall keep the original and shall send one copy to the
40 clerk of the circuit court, one to the clerk of the county
41 court, and one to the deputy commissioner. The clerk
42 of the county court shall bind his copy in a permanent
43 book to be labeled "Report of State Commissioner of For-
44 feited and Delinquent Lands" and shall note the fact of
45 the certification of each item on his record of delinquent
46 lands. The clerk of the circuit court shall preserve his
47 copy in a suitable and convenient manner until each item
48 therein certified has been finally disposed of.

Sec. 10. *Redemption after Certification and Before*

2 *Sale.*—In order to redeem after certification and before
3 sale, any person having a right of redemption under the
4 provisions of section eight, article three of this chapter,
5 must apply to the deputy commissioner. The deputy com-
6 missioner shall thereupon compute the amount required
7 for redemption by adding to the amount stated in the
8 auditor's list as the total due on the date of certification,
9 interest on such amount at the rate of twelve percent
10 per annum from such date to the date of redemption,
11 and such of the following fees and charges as may be
12 due: (1) Such fee for the certificate of redemption as is
13 provided by section nine, article three of this chapter, for
14 redemption from the auditor. (2) A charge of one dollar
15 for preparation and certification of the list. (3) A fee of
16 one dollar for compensation of the deputy commissioner.
17 (4) A charge of one dollar for costs of the proceedings in
18 the circuit court, if redemption is after application to the
19 court as provided in section fourteen of this article. (5) A
20 charge of one dollar for publication and posting of the
21 list and the notice of sale, if redemption is after publica-
22 tion has begun.

23 The amount so found to be due shall be entered by the
24 deputy commissioner on a blank order, to be signed by
25 him, directing the sheriff to receive and give his receipt
26 for such amount. The order, thus filled in and signed,
27 shall be presented to the sheriff when payment is made.
28 The auditor shall prescribe the form of the order and
29 shall furnish copies thereof to each deputy commissioner.
30 Partial redemption, as provided for in sections eight
31 and thirteen, article three of this chapter, shall not be
32 allowed at any time after certification.

Sec. 11. *Certificate of Redemption Issued by Deputy
2 Commissioner; Recordation.*—Upon presentation to him
3 of the sheriff's receipt for the amount found to be due
4 under the preceding section, the deputy commissioner
5 shall issue a certificate of redemption in the same form
6 as the auditor's certificate required by section nine, ar-
7 ticle three of this chapter. All certificates issued by the
8 deputy commissioner in each year shall be numbered con-
9 secutively. The original certificate shall be sent to the
10 auditor for filing in his office, one copy shall be delivered
11 to the person redeeming, and the other copy shall be de-

12 livered by the deputy commissioner to the clerk of the
13 county court who in respect to this certificate shall do
14 everything required of him by section nine, article three
15 of this chapter, in respect to the auditor's certificate.

Sec. 12. *Lien of Person Redeeming Interest of Another;*
2 *Record.*—Any person redeeming an interest of another
3 shall be subrogated to the lien of the state on such in-
4 terest. He shall lose his right to the lien, however, unless
5 within thirty days after payment he shall file with the
6 clerk of the county court his claim in writing against the
7 owner of such interest, together with a reference by
8 number to the certificate of redemption delivered by the
9 deputy commissioner to the clerk, as provided in the pre-
10 ceding section. The clerk shall docket the claim on the
11 judgment lien docket in his office and properly index the
12 same. Such lien may be enforced as other judgment liens
13 are enforced.

Sec. 13. *Revaluation and Reclassification.*—One redeem-
2 ing from the deputy commissioner may request such a
3 revaluation or reclassification as is provided for in sec-
4 tion eleven, article three of this chapter. Any new valua-

5 tion or reclassification shall, however, be certified by the
6 county court to the deputy commissioner and shall be
7 used by him in computing the taxes due.

Sec. 14. *Upon Application of Deputy Commissioner*
2 *Circuit Court to Order Sale and Publication of Notice.*—
3 At any time after certification by the auditor, the deputy
4 commissioner may apply to the circuit court, or to the
5 judge thereof in vacation, for an order fixing a date for
6 the sale and for the first publication of the list and the
7 notice of sale. If the deputy commissioner fails to make
8 such application within thirty days after certification, he
9 shall forfeit one hundred dollars. When such application
10 is made, the court or judge, after fixing the dates, shall
11 order the deputy commissioner (1) to prepare, as pro-
12 vided in section sixteen of this article, the list of lands
13 to be sold; (2) to publish, on the date fixed, the list and
14 the notice of sale as required by section sixteen of this
15 article; and (3) to sell, on the date fixed for the sale, each
16 unredeemed item for the amount stated in the published
17 list as the amount then due thereon.
18 In applying for the order, the deputy commissioner

19 shall give to the court or judge his estimate as to the time
20 necessary for making the computation of the amount due,
21 and the court or judge shall consider that estimate in
22 fixing the date of first publication. The date fixed for the
23 sale shall be not less than sixty nor more than ninety
24 days after the date named in the order for the first publi-
25 cation of the notice.

Sec. 15. *Separate Order Book to be Kept by Clerk;*
2 *Costs.*—All orders, whether administrative or judicial,
3 made by the court or judge in respect to proceedings for
4 the sale of lands under this article shall be entered by
5 the clerk of the court in a separate order book, to be
6 labeled “Order Book for Sales of Lands for School Fund.”
7 Every order shall specify the certification number of
8 each item to which the order is applicable. The clerk of
9 the court shall index the order book by certification num-
10 ber of each tract.

11 The costs of the proceedings in the circuit court shall
12 be one dollar for each item certified by the auditor in
13 respect to which any order is made by the court or judge.

14 Unless otherwise expressly provided by this article, no
15 additional costs shall be taxed.

Sec. 16. *Publication and Posting of List of Lands to be*
2 *Sold; Notice.*—Before the date set by the court or judge
3 for the first publication of the notice of sale, the deputy
4 commissioner shall prepare, from the list certified by the
5 auditor, a list of all lands thereon which have not been
6 redeemed by such date. The list shall state in respect to
7 each item the amount which, exclusive of the redemption
8 fee, will be due on the date fixed for the sale. The form
9 of such list shall be determined by the auditor.

10 The deputy commissioner shall also prepare a notice
11 of sale in form or effect as follows:

12 Notice is hereby given to all interested parties that,
13 pursuant to the order of the Circuit Court of _____
14 County, (or of _____, Judge of the Circuit Court
15 of _____ County, in vacation,) the following de-
16 scribed tracts or lots of land, or undivided interests there-
17 in, will be offered for sale by the undersigned deputy
18 commissioner of forfeited and delinquent lands at public
19 auction at the front door of the courthouse of the county,

20 between the hours of ten in the morning and four in the
21 afternoon on the.....day of....., 19.....,
22 unless sooner redeemed or by order of the court or judge
23 suspended from sale.

24 All delinquent lands and all forfeited lands will be
25 offered for sale for the amount due thereon as stated in
26 the following list.

27 All escheated and all waste and unappropriated lands
28 will be sold to the highest bidder, subject to approval of
29 the bid by the court or judge.

30 Commencing on the date fixed by the order of the court
31 or judge for the first publication, the deputy commis-
32 sioner shall publish the list and notice, once a week for
33 two successive weeks, in two newspapers of opposite
34 politics, if such there be in the county, and the costs of
35 printing shall be paid out of the operating fund for the
36 land department in the auditor's office. There shall not
37 be allowed or paid as such costs a greater sum than
38 twenty-five cents per item for each insertion in each
39 newspaper. The deputy commissioner shall also post a
40 copy of the list and notice at the front door of the court-

41 house on the date ordered for the first publication. If
42 there is no newspaper published in the county, or if no
43 such newspaper will publish the list and notice for the
44 compensation provided then he shall also post a copy of
45 the notice, but not of the list, at some public place in
46 each magisterial district at least sixty days before the
47 sale. In such case, the notice shall also state that the list
48 of lands to be sold has been posted at the front door of
49 the courthouse.

Sec. 17. *Application for Reduction of Amount Due.*—

2 Any person substantially interested, who claims that the
3 amount rightfully due on any item is less than the
4 amount for which it is advertised for sale, may apply to
5 the circuit court, or to the judge thereof in vacation, for
6 an order reducing such amount. The deputy commis-
7 sioner may also apply for such an order whenever, be-
8 cause of a revaluation under section thirteen of this ar-
9 ticle or for any other reason, he is satisfied that the
10 amount should be reduced.

Sec. 18. *Application for Suspension from Sale.*—Any

2 person substantially interested may apply to the circuit

3 court, or to the judge thereof in vacation, for an order
4 suspending from sale any land as to which he makes one
5 of the following claims: (1) That all taxes due thereon
6 were paid before sale to the state. (2) That the land was
7 redeemed after sale to the state. (3) That the land has
8 not escheated. (4) That the land has not been forfeited
9 for nonentry. (5) That the land was sold to him at a
10 former circuit court sale for the benefit of the school
11 fund and has not thereafter been sold to the state for
12 nonpayment of taxes nor forfeited for nonentry. (6) That
13 he has acquired title to the land by transfer under the
14 provisions of section three, article thirteen of the con-
15 stitution. The application shall state briefly the facts on
16 which the claim is based. The deputy commissioner may
17 also apply for such an order whenever on any of these
18 grounds he is satisfied that the land should not be sold.

Sec. 19. *Procedure upon Application for Reduction or*
2 *Suspension Order.*—Whenever application under either of
3 the two preceding sections is by the deputy commissioner,
4 he shall state briefly the reasons for his application, and
5 the court or judge, if satisfied therewith, shall enter the

6 order applied for. No costs shall be taxed in connection
7 with applications by the deputy commissioner.

8 Whenever the application is by a person substantially
9 interested, the court or judge shall enter an order tem-
10 porarily suspending sale of the land involved and fixing
11 the date for a hearing upon the application, which date
12 shall be not less than ten nor more than thirty days af-
13 ter the application was made. At least ten days' notice
14 of the hearing shall be given to the deputy commissioner,
15 who shall attend as representative of the state. The costs
16 in connection with such applications shall be taxed to the
17 applicant.

18 At the hearing upon an application under section seven-
19 teen, the court or judge shall determine the amount
20 properly due and shall order the land sold for such
21 amount on the date originally fixed for the sale, or if
22 that has passed, then on some new date. At the hearing
23 upon an application under section eighteen, the court or
24 judge, if satisfied that the applicant has established his
25 claim, shall enter an order permanently suspending sale
26 of the land and directing the deputy commissioner to

27 execute to the former owner or to the applicant, as the
28 case may be, a quitclaim deed of the state's title to the
29 land or interest claimed. If not so satisfied, the court or
30 judge shall order that the sale proceed on the date or-
31 iginally fixed, or if that has passed, then on some new
32 date.

33 Whenever a new date is fixed for the sale, the court or
34 judge shall order a republication of the notice of sale re-
35 quired by section sixteen of this article. In any case in
36 which the applicant was unsuccessful, the cost of such
37 republication shall be borne by the applicant and shall be
38 taxed to him as part of the costs; otherwise, it shall be
39 paid out of the operating fund for the land department in
40 the auditor's office.

41 All oral testimony presented at the hearing shall be
42 reduced to writing and shall, together with all papers
43 and documents so presented, be made a part of the record
44 of the proceeding before the circuit court or judge.

Sec. 20. *Review of Refusal by Court or Judge to Enter*
2 *Administrative Order.*—A private applicant, who is
3 aggrieved by the refusal of the circuit court or judge to

4 enter any administrative order applied for under the pro-
5 visions of this article, may, at any time within four
6 months after entry of the order refusing such application,
7 present a petition in writing to the supreme court of
8 appeals, or to a judge thereof in vacation, praying for a
9 review of such refusal. The petitioner shall, before pre-
10 sending the petition to the supreme court or judge, de-
11 liver one copy thereof to the circuit judge who signed the
12 order refusing the application, and one copy to the
13 auditor. After the circuit judge receives his copy and
14 until the petition has been withdrawn, or has been dis-
15 posed of by the supreme court, the land in respect to
16 which the application was made shall be suspended from
17 sale, or if it was sold before the petition was filed, the
18 sale thereof shall not be confirmed.

19 The supreme court or judge shall fix a time for the
20 hearing upon the petition, but the hearing, unless by
21 agreement of the parties, shall not be held sooner than
22 ten days after presentation of the petition. Notice of the
23 time and place of such hearing shall immediately be given
24 to the circuit judge so that he may be represented at

25 the hearing, and such notice shall also be given to the
26 auditor. If the circuit judge does not designate counsel to
27 represent him, it shall be the duty of the attorney general,
28 upon request of the auditor, to appear for that purpose
29 at the hearing.

30 The circuit judge shall, before the hearing on the
31 petition, file with the clerk of the supreme court a written
32 statement of his reasons for refusing the order applied
33 for. He shall at the same time file with the clerk all the
34 papers, documents and evidence presented at the hearing
35 which resulted in such refusal. The supreme court shall
36 hear the case and dispose of the petition solely upon the
37 record of the proceeding before the circuit court or judge.

Sec. 21. *Sale by Deputy Commissioner; Report to Cir-*
2 *cuit Court.*—On the day fixed by order of the court or
3 judge, the deputy commissioner shall sell, in the manner
4 specified in the notice of sale and for the amount stated
5 to be due in the published list of lands to be sold, each
6 unredeemed item included in such list, unless the sale
7 thereof has been suspended. If the sale is not completed
8 on that day, it shall be continued from day to day until

9 all the land has been disposed of. For the purpose of re-
10 ceiving the proceeds of the sale, it shall be the duty of the
11 sheriff to attend all such sales conducted by the deputy
12 commissioner in his county.

13 The deputy commissioner shall prepare a report for the
14 circuit court which shall show what was done with respect
15 to all lands ordered to be sold. The report shall state as to
16 each item whether it was redeemed before sale, was sus-
17 pended from sale, or was sold, and if sold, the name of the
18 purchaser. The report shall, within ten days after the
19 sale, be filed with the clerk of the circuit court who shall
20 note on his certified list the information given with re-
21 spect to each tract.

Sec. 22. *Purchase by Individual; Receipt.*—If any per-
2 son, being the highest bidder at the sale, bids and pays
3 at least the amount for which any land is offered for
4 sale, the sheriff shall issue to him a receipt for the pur-
5 chase money. The auditor may prescribe the form of the
6 receipt.

Sec. 23. *Purchase by Deputy Commissioner for Pub-*
2 *lic Land Corporation.*—The deputy commissioner shall

3 purchase for the Public Land Corporation, for the amount
4 stated to be due in the published list, all forfeited and
5 delinquent lands on which no bid of such amount is
6 made. He shall also purchase for the Public Land Cor-
7 poration, for the amount of the publication and other
8 charges due, all escheated or waste and unappropriated
9 lands on which no bids are made. If the highest bid on
10 any escheated or waste and unappropriated land is not
11 approved by the court or judge, such land shall be sold
12 to the deputy commissioner in open court, for the Public
13 Land Corporation, for the amount of the publication and
14 other charges due. In such case, the sheriff shall be or-
15 dered to restore to the bidder the amount of purchase
16 money paid at the sale.

Sec. 24. *Co-owner Free to Purchase at Sale; Purchase*
2 *by Deputy Commissioner and Other Officers Prohibited.*—
3 Any co-owner, except a co-parcener, in the absence of sat-
4 isfactory proof of a fiduciary relationship, shall be entitled
5 to purchase at the sale for his own account the interest of
6 any, or all, of his co-owners in any real estate, without be-
7 ing required to hold such interest or interests under any

8 constructive trust. There shall be a prima facie presump-
9 tion against the existence of any such constructive trust.

10 No deputy commissioner, sheriff, clerk of the county
11 or circuit court, assessor, nor deputy of either shall directly
12 or indirectly become the purchaser, or be interested in the
13 purchase of any real estate at the sale. Any such officer so
14 purchasing shall forfeit one hundred dollars for each
15 offense. The sale of any real estate to one of the officers
16 named in this section shall be voidable, at the instance of
17 any person having the right to redeem, until such real
18 estate reaches the hands of a bona fide purchaser.

Sec. 25. Right of Former Owner to Surplus Proceeds.—

2 If upon the sale of any forfeited or delinquent lands a
3 surplus is realized over and above the total amount due on
4 such land, the sheriff shall pay such surplus to the
5 general receiver of the circuit court. The former owner
6 of such land shall be entitled to the surplus upon applica-
7 tion to the circuit court, if application is made within
8 two years after the sale. If no application is made within
9 two years the general receiver shall pay such surplus into

10 the operating fund for the land department in the
11 auditor's office.

Sec. 26. *Right of Creditor of Former Owner of Es-*
2 *cheated Land.*—Surplus proceeds arising from the sale of
3 any escheated land, after all publication and other
4 charges in respect thereto have been paid, may be applied
5 to the satisfaction of the claims of creditors of the de-
6 cedent who had a lien on the land at the time of his death
7 or who, being general creditors, have properly proved
8 their claims against his estate and have been unable to
9 obtain payment out of the personalty. The auditor shall
10 make rules and regulations respecting the presentation
11 and disposition of the claims of such creditors. Such rules
12 and regulations shall require that application by a creditor
13 be made within a year after the sale, and shall give due
14 preference to lien creditors over general creditors.

Sec. 27. *Redemption After Sale to Individual and Be-*
2 *fore Confirmation; Receipt.*—After the sale of any for-
3 feited or delinquent land to an individual, any person
4 having a right of redemption under the provisions of sec-
5 tion eight, article three of this chapter, may redeem such

6 land at any time before confirmation of the sale by pay-
7 ing to the purchaser, his heirs or assigns, the following
8 amounts: (1) The amount of purchase money paid, with
9 interest at the rate of twelve percent per annum from the
10 date of sale. (2) All taxes thereon, which have since
11 been paid by the purchaser, his heirs or assigns, with in-
12 terest at the rate of twelve percent per annum from the
13 date of payment. (3) Such additional expenses as may
14 have been incurred in procuring the survey or report
15 required by section thirty-four of this article and in pre-
16 paring the list of those to be served with notice and giving
17 the notice required by sections thirty-six and thirty-eight
18 of this article.

19 The person redeeming shall be given triplicate receipts
20 for the payment. If the purchaser, his heirs or assigns, shall
21 refuse or fail to sign and give such receipts when lawfully
22 required to do so, he or they shall pay to the person
23 redeeming twice the amount of such payment, which
24 may be recovered by action on the case in any court of
25 competent jurisdiction. One of such receipts shall be
26 filed with the clerk of the circuit court, who shall not^e the

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27 fact of redemption on his certified list. One of the re-
28 ceipts shall, on or before the day set for confirmation of
29 the sale, be filed with the clerk of the county court, who
30 shall endorse thereon, and also on the receipt retained by
31 the person redeeming, the fact and time of such filing, and
32 shall note the fact of redemption on his record of de-
33 linquent lands. If the receipt is not filed on or before
34 such date, the redemption shall be void as to creditors
35 and subsequent bona fide purchasers from the purchaser,
36 his heirs or assigns. If, however, the receipt is filed after
37 the date required, it shall operate as notice from and
38 after the date of filing.

Sec. 28. *Redemption after Sale to Public Land Corpora-*
2 *tion and Before Confirmation.*—After the sale of any
3 forfeited or delinquent land to the Public Land Corpora-
4 tion, any person having a right of redemption under the
5 provisions of section eight, article three of this chapter,
6 may redeem such land at any time before confirmation
7 of the sale by paying to the sheriff upon the order of the
8 deputy commissioner the following amounts: (1) The
9 amount for which the property was bid in for the Public

10 Land Corporation, with interest at the rate of twelve per-
11 cent per annum from the date of sale. (2) Such fee for
12 the certificate of redemption as is provided by section
13 nine, article three of this chapter for redemption from
14 the auditor. (3) Such compensation for preparing the list
15 of those to be served with notice as may have been earned
16 by the deputy commissioner under the provisions of sec-
17 tion thirty-three of this article. (4) All expenses which
18 may have been incurred in giving the notice required by
19 sections thirty-seven and thirty-eight of this article.

20 Upon presentation to the deputy commissioner of the
21 sheriff's receipt for the amount due, the deputy commis-
22 sioner shall issue a certificate of redemption as required
23 by section eleven of this article, and shall comply with all
24 other provisions of that section in respect to such certifi-
25 cate. The deputy commissioner shall report the redemp-
26 tion to the clerk of the circuit court, who shall note the
27 fact of redemption on his certified list.

Sec. 29. *Lien of Person Redeeming Interest of Another;*
2 *Record.*—Any person who, by reason of the fact that no
3 provision is made for partial redemption from the circuit

4 court sale, is compelled in order to protect himself to
5 redeem all of any real estate which belonged in whole
6 or in part to some other person, shall have a lien on the
7 interest of such other person for the amount paid to re-
8 deem such interest. He shall lose his right to the lien,
9 however, unless within thirty days after payment he
10 shall file with the clerk of the county court his claim in
11 writing against the owner of such interest, together with
12 the receipt provided for in section twenty-seven or in
13 section thirty of this article or with a reference by num-
14 ber to the certificate of redemption provided for in the
15 preceding section. The clerk shall docket the claim on
16 the judgment lien docket in his office and properly index
17 the same. Such lien may be enforced as other judgment
18 liens are enforced.

Sec. 30. *Payment of Redemption Money to Clerk of*
2 *Circuit Court.*—Whenever, despite the provisions of the
3 two preceding sections, the deputy commissioner or the
4 purchaser, his heirs or assigns, shall refuse to allow re-
5 demption, or cannot be found, payment may be made to
6 the clerk of the circuit court at any time before confirma-

7 tion of the sale. The clerk shall issue duplicate receipts
8 and shall note the fact of redemption on his certified list.
9 One of the receipts shall be given to the person redeem-
10 ing and the other shall be sent by the clerk to the clerk
11 of the county court, who, after noting the fact of redemp-
12 tion on his record of delinquent lands, shall file and pre-
13 serve the receipt in his office.

Sec. 31. *Contest of Redemption by Payment to Clerk.*—

2 If the deputy commissioner or the purchaser, his heirs
3 or assigns, dispute the right to redeem of the person
4 making payment to the clerk as provided in the preceding
5 section, he or they may, within one year after payment to
6 the clerk, give to such person, or to his heirs, or personal
7 representative, notice in writing of such dispute, requiring
8 him or them to appear before the circuit court of the
9 county, on a day to be named in the notice, and prove that
10 the person who made the payment had a right to re-
11 deem. Such notice shall be served at least ten days be-
12 fore the day on which it is returnable and, if the party
13 served fails to appear, or if he appears and fails to prove
14 the right to redeem, the court shall enter an order can-

15 celling the redemption. If the contest is by an individual
16 purchaser, his heirs or assigns, the court shall, at his or
17 their request, enter an order allowing reasonable ad-
18 ditional time for compliance with the conditions of the
19 following section. Compliance within such additional time
20 shall be as valid as if made within the time specified in
21 that section. The court shall also order the clerk of the
22 court to return the redemption money to the person who
23 made the payment, or to his personal representative. If,
24 however, the decision of the court be that such person had
25 the right to redeem, the clerk shall be ordered to pay the
26 money to the purchaser, his heirs or assigns, or to the
27 sheriff, as the case may be, and, in the case of sale to
28 the Public Land Corporation, shall order the deputy com-
29 missioner to execute a certificate of redemption as re-
30 quired by section twenty-eight of this article.

31 If the deputy commissioner or the purchaser, his heirs
32 or assigns, admit the right to redeem but claim that the
33 sum paid the clerk was insufficient, he or they may upon
34 similar notice have the sufficiency of the payment de-
35 termined by the court. If the person redeeming fails to

36 appear or if the decision is that the sum paid was in-
37 sufficient, the court shall, unless such additional amount
38 as may be found to be due is paid within thirty days, en-
39 ter an order cancelling the redemption, and shall also
40 enter such further appropriate orders as are authorized
41 to be entered under the preceding paragraph. If the sum
42 is found to have been sufficient, the court shall make
43 such orders as are appropriate when the right to redeem is
44 sustained under the preceding paragraph.

45 Proceedings under this section, like those under the
46 corresponding section, numbered nineteen, in article
47 three of this chapter, shall be brought before the court
48 in its judicial capacity rather than in its capacity as the
49 administrative agency for the sale of state lands, and shall,
50 in respect to procedure at the hearing and upon appeal,
51 and in other particulars, including taxation of costs, be
52 governed by the rules applicable to other similar judicial
53 proceedings.

Sec. 32. *Conditions Precedent to Confirmation of Sale*
2 to *Individual Purchaser*.—In order to have the sale of
3 any forfeited or delinquent land confirmed, an individual

4 purchaser, his heirs or assigns, within sixty days after
5 the sale, must: (1) secure and file with the clerk of the
6 circuit court the report or plat and description provided
7 for in section thirty-four of this article; (2) examine the
8 title in order to prepare a list of those to be served with
9 notice to redeem and apply to the court or judge, for an
10 order directing the clerk to prepare and serve the notice
11 as provided in sections thirty-six and thirty-eight of this
12 article; and (3) deposit, or offer to deposit, with the
13 clerk a sum sufficient to cover the cost of preparing and
14 serving the notice. A purchaser of escheated or waste
15 and unappropriated land must meet only the first of these
16 requirements and, as soon as he has done so, may apply
17 for an order confirming the sale. For failure to do any-
18 thing required by this section within the time allowed,
19 the purchaser shall lose all the benefits of his purchase,
20 and the land shall be included by the auditor in his next
21 certification of lands to the circuit court.

22 If the person requesting preparation and service of the
23 notice is an assignee of the purchaser, he shall, at the
24 time of the request, file with the clerk a written assign-

25 ment to him of the purchaser's rights, executed, acknowl-
26 edged and certified in the manner required to make a
27 valid deed.

Sec. 33. *Conditions Precedent to Confirmation of Sale*
2 to *Public Land Corporation*.—Immediately after the sale
3 the deputy commissioner shall, as to each sale of forfeited
4 or delinquent land to the Public Land Corporation, pro-
5 ceed with the examination of title and with preparation
6 of the list of persons to be served with notice to redeem.
7 Before the sale may be confirmed, he must complete the
8 list and apply to the circuit court or judge for an order
9 directing the clerk to prepare and serve the notice as
10 provided in sections thirty-seven and thirty-eight of this
11 article. For such services in respect to each sale, the
12 deputy commissioner shall be entitled to a fee of five
13 dollars, plus such additional compensation as the auditor
14 may recommend and the court or judge approve, to be
15 paid out of the operating fund for the land department
16 in the auditor's office.

17 In the case of a sale to the Public Land Corporation
18 of any escheated or waste and unappropriated land, the

19 deputy commissioner, without being required to do any-
20 thing else, may apply immediately after the sale for con-
21 firmation thereof.

Sec. 34. *Report or Survey of Real Estate Purchased.*—

2 An individual purchaser, his heirs or assigns, must at his
3 or their expense have the county surveyor make such a
4 report or survey of the real estate purchased as is re-
5 quired by section twenty-one, article three of this chapter.
6 The report or plat and description must be filed with the
7 clerk of the circuit court within sixty days after the sale.
8 The fact and time of such filing shall be endorsed by the
9 clerk on the report or on the plat and description and
10 shall be noted by him on his certified list.

Sec. 35. *Application for Order Directing Service of No-*

2 *tice to Redeem.*—After complying with the other condi-
3 tions of section thirty-two of this article, the individual
4 purchaser of any forfeited or delinquent land, his heirs or
5 assigns, or if such land was sold to the Public Land Corpor-
6 ation, the deputy commissioner, upon compliance with
7 the other conditions of section thirty-three of this article,
8 must apply to the circuit court, or to the judge thereof

9 in vacation, for an order directing the clerk of the court
10 to prepare and serve the notice to redeem on those named
11 in the prepared list of persons entitled to such notice.
12 Upon a showing of such compliance, the court or judge
13 shall order the clerk to prepare the proper notice as
14 required by section thirty-six or section thirty-seven of
15 this article and to serve the notice as provided in section
16 thirty-eight of this article.

17 Upon the refusal of the court or judge to enter such an
18 order on the application of an individual purchaser, the
19 purchaser may demand such a hearing as is provided for
20 in section nineteen of this article. All appropriate pro-
21 visions of that section shall be applicable to the hearing
22 herein provided for, and the proceedings at such hear-
23 ing shall be made a part of the record. If after the hear-
24 ing the court or judge again refuses to enter the order
25 applied for, such refusal may be reviewed as provided
26 in section twenty of this article. The petition for review
27 may be filed at any time within four months after entry
28 of the order of refusal at the hearing demanded under the
29 provisions of this paragraph.

Sec. 36. *Notice to Redeem from Sale to Individual Pur-*

2 *chaser.*—Whenever ordered to do so as provided in the
3 preceding section, the clerk of the circuit court shall
4 prepare a notice in form or effect as follows:

5 To.....

6 You will take notice that upon the application of.....
7, the purchaser (or....., the as-
8 signee, heir or devisee of....., the
9 purchaser) of the following real estate,,
10 (here describe and give the certification number of the
11 real estate sold) located in.....,
12 (here name the city, town or village in which the real
13 estate is situated or, if not within a city, town, or village,
14 give the district and a general description) which was
15 sold (or was forfeited) to the state in the name of.....
16, and which by order of the circuit court
17 (or of the judge of the circuit court) was sold by the
18 deputy commissioner of forfeited and delinquent lands
19 of.....County on the.....day of
20, 19....., the Circuit Court of
21County (or....., Judge

22 of the Circuit Court of.....County, in vaca-
 23 tion,) has ordered that you be notified that the sale will
 24 be confirmed on or after the.....day of,
 25 19....., as provided by law, unless before confirmation of
 26 the sale such real estate be redeemed or the sale thereof
 27 set aside. Upon confirmation of the sale your right to
 28 redeem will be forever terminated. The amount necessary
 29 for redemption on the date of this notice is as follows:

30 Amount paid at sale, with interest to date at
 31 the rate of twelve percent per annum\$———
 32 Amount of taxes paid on the property since the
 33 sale, with interest to date at the rate of twelve
 34 percent per annum\$———
 35 Amount paid for survey and report\$———
 36 Amount paid for preparation of list of those to be served
 37 and for preparation and service of the notice ...\$———
 38 Total\$———

39 You may redeem at any time before confirmation of
 40 the sale by paying the above total plus interest on the
 41 first two amounts to the date of redemption.

42 Given under my hand this.....day of.....,

43 19.....

44

45 Clerk of the Circuit Court

46

.....County

47

State of West Virginia.

48 The date named in the notice as the date on or after
49 which the sale will be confirmed shall be three months
50 after the day on which service of the notice was ordered.

51 The clerk for his services in preparing the notice shall
52 receive a fee of fifty cents for the original and twenty-
53 five cents for each copy required.

Sec. 37. *Notice to Redeem from Sale to Public Land*

2 *Corporation.*—Whenever ordered to do so as provided
3 in section thirty-five of this article, the clerk of the cir-
4 cuit court shall prepare a notice in form or effect as fol-
5 lows:

6 To.....

7 You will take notice that upon the application of
8, a deputy commissioner of for-
9 feited and delinquent lands in the county of.....,

10 who bid in for the Public Land Corporation the follow-
11 ing real estate, _____, (here describe and
12 give certification number of the real estate sold) located
13 in _____, (here name the city, town or vil-
14 lage in which the real estate is situated or if not within
15 a city, town or village, give the district and a general
16 description) which was sold (or was forfeited) to the
17 state in the name of _____, and which by
18 order of the circuit court (or of the judge of the circuit
19 court) was sold by the deputy commissioner, on the _____
20 day of _____, 19____, the Circuit Court of
21 _____County (or _____, Judge
22 of the Circuit Court of _____County, in
23 vacation,) has ordered that you be notified that the sale
24 will be confirmed on or after the _____day of _____,
25 19____, as provided by law, unless before confirmation of
26 the sale such real estate be redeemed or the sale thereof
27 set aside. Upon confirmation of the sale your right to
28 redeem will be forever terminated. The amount neces-
29 sary for redemption on the date of this notice is as fol-
30 lows:

31 Amount bid at sale, with interest at the rate of
 32 twelve percent per annum\$———
 33 Amount due for preparation of list of those to be served
 34 and for preparation and service of notice.....\$———
 35 Fee for certificate of redemption\$———
 36 Total.....\$———

37 You may redeem at any time before confirmation of
 38 the sale by paying to the sheriff, upon the order of the
 39 deputy commissioner, the above total plus interest on
 40 the first amount to the date of redemption.

41 _____
 42 Clerk of the Circuit Court
 43 _____County
 44 State of West Virginia.

45 The date named in the notice as the date on or after
 46 which the sale will be confirmed shall be three months
 47 after the day on which service of the notice was ordered.

48 The clerk for his services in preparing the notice shall
 49 receive a fee of fifty cents for the original and twenty-
 50 five cents for each copy required, to be paid out of the

51 operating fund for the land department in the auditor's
52 office.

Sec. 38. *Service of Notice.*—As soon as the clerk has
2 prepared the notice provided for in either of the two pre-
3 ceding sections, he shall cause it to be served upon the
4 following persons: (1) the person in whose name the
5 real estate was forfeited or was returned delinquent and
6 sold, or, in case of his death, his heir or devisee and his
7 personal representative, if such there be; (2) any grantee
8 of such person, or his heir or devisee and his personal
9 representative, if such there be, if a conveyance of such
10 real estate is recorded or filed for record in the office of
11 the clerk of the county court; (3) any person having a
12 lien upon such real estate disclosed by any paper recorded
13 in the county clerks' office, and (4) any other person hav-
14 ing such an interest in the property as would entitle him
15 to redeem, if the existence of such interest appears of
16 record.

17 The notice shall be personally served upon all such
18 persons residing or found in the state in the manner
19 provided for serving process commencing a suit, on or

20 before the fifteenth day following the order for service
21 of such notice. If any person entitled to notice is a non-
22 resident of the state or if his residence is unknown to the
23 clerk and cannot by due diligence be discovered, the no-
24 tice shall be served by publication once a week for three
25 successive weeks in some newspaper published in the
26 county in which such real estate is located, or if no news-
27 paper is published in the county, then in some newspaper
28 of general circulation in the county. If service by publica-
29 tion is necessary, publication shall be commenced within
30 three weeks after the order for service of the notice was
31 made, and a copy of the notice shall at the same time be
32 sent by registered mail, return receipt requested, to the
33 last known address of the person served. The return of
34 service of such notice and the affidavit of publication,
35 if any, shall be in the manner provided for process gen-
36 erally, and shall be filed and preserved by the clerk in his
37 office, together with any return receipts for notices sent
38 by registered mail.

39 The cost of serving notices to redeem from the Public

40 Land Corporation shall be paid out of the operating fund
41 for the land department in the auditor's office.

Sec. 39. *Proceeding to Set Aside Sale.*—Any person
2 entitled under the provisions of section eighteen of this
3 article to apply for an order suspending the sale of any
4 land, but who did not learn of the proposed sale in time
5 to protect himself by making such application, may, at
6 any time after the sale and before confirmation thereof,
7 institute a proceeding under this section to set aside the
8 sale. Notice in writing of the institution of such proceed-
9 ing shall be given to the purchaser, his heirs, or assigns,
10 or, in the case of a sale to the Public Land Corporation,
11 to the deputy commissioner. The notice shall state the
12 facts which are the basis of the claimed right to have the
13 sale set aside, shall require the person served to appear
14 before the circuit court, on a day to be named in the
15 notice, and protect whatever rights were acquired at the
16 sale, and shall be served at least ten days before the day
17 on which it is returnable.

18 If the decision be in favor of the claimant, the court
19 shall enter an order setting aside the sale, directing the

20 deputy commissioner to execute a deed releasing to the
21 former owner or to the claimant, as the case may be, all
22 the state's title to the land or interest claimed, and, if the
23 sale was to an individual, directing the sheriff to return
24 the purchase money to the purchaser, his heirs or assigns.
25 If the decision be against the claimant, the court shall, at
26 the request of the purchaser, his heirs or assigns, enter
27 an order allowing reasonable additional time for com-
28 pliance with the conditions of section thirty-two of this
29 article. Compliance within such additional time shall be
30 as valid as if made within the time specified in that sec-
31 tion. Until a decision has been made, the sale may not be
32 confirmed.

33 Proceedings under this section, like those under section
34 thirty-one of this article, shall be brought before the
35 court in its judicial capacity rather than in its capacity
36 as the administrative agency for the sale of state lands,
37 and shall, in respect to procedure at the hearing and upon
38 appeal, and in all other particulars, including taxation of
39 costs, be governed by the rules applicable to other similar
40 judicial proceedings.

Sec. 40. *Confirmation of Sale; Right to Redeem Termin-*

2 *ated.*—If the real estate described in the notice to redeem
3 is not redeemed before the date for confirmation named
4 therein, nor the sale set aside, the deputy commissioner
5 or the purchaser, his heirs or assigns, may apply to the
6 circuit court, or to the judge thereof in vacation, for an
7 order confirming the sale. In the case of escheated or
8 waste and unappropriated lands, such application may be
9 made as provided in section thirty-two or section thirty-
10 three of this article. The court or judge, upon a showing
11 that all requirements have been met, shall enter an order
12 confirming the sale and, in the case of sale to an indi-
13 vidual purchaser, directing the deputy commissioner to
14 execute and delivered to him or to his heirs or assigns, a
15 deed as provided in the following section.

16 Upon a refusal of the court or judge to enter such an
17 order on the application of an individual purchaser, the
18 purchaser may demand such a hearing as is provided for
19 in section nineteen of this article. All appropriate pro-
20 visions of that section shall be applicable to the hearing
21 herein provided for, and the proceedings at such hearing

22 shall be made a part of the record. If after the hearing
23 the court or judge again refuses to enter the order ap-
24 plied for, such refusal may be reviewed as provided in
25 section twenty of this article. The petition for review
26 may be filed at any time within four months after entry
27 of the order of refusal at the hearing demanded under
28 the provisions of this paragraph.

29 Upon confirmation of the sale all right of redemption
30 in respect to the land shall be terminated, except such as
31 is for persons under disability expressly saved by the
32 provisions of section forty-nine of this article. For failure
33 to apply for confirmation of the sale of any forfeited or
34 delinquent lands within sixty days after the date for
35 confirmation specified in the notice to redeem, or, in the
36 case of escheated or waste and unappropriated lands,
37 within sixty days after the first day on which such appli-
38 cation might properly have been made, an individual
39 purchaser shall lose all the benefits of his purchase, and
40 the land shall be included by the auditor in his next cer-
41 tification of lands to the circuit court.

Sec. 41. *Deed to Purchaser; Record.*—Whenever ordered

2 to do so as provided in the preceding section, the deputy
3 commissioner shall make and deliver to the person en-
4 titled thereto a deed in form or effect as follows:

*ok
gr
by
the*

5 ^{His}The deed made this.....day of....., 19....,
6 by and between....., deputy commissioner
7 of forfeited and delinquent lands for.....County,
8 West Virginia, grantor, and....., purchaser,
9 (or....., heir, devisee or assignee of.....,
10 purchaser,) grantee, witnesseth that

11 Whereas, in pursuance of the statutes in such case
12 made and provided, the above named deputy commis-
13 sioner did, by order of the Circuit Court of.....
14 County, (or by order of....., Judge of the
15 Circuit Court of.....County, in vacation,) in
16 the month of....., in the year 19...., sell the
17 real estate, hereinafter mentioned and described, for the
18 benefit of the school fund, and....., (here in-
19 sert name of purchaser) for the sum of \$....., that
20 being the amount of purchase money paid, did become
21 the purchaser of such real estate (or of an undivided
22interest in such real estate) which was sold to

23 the state for nonpayment of taxes in the name of.....
24; (or which was forfeited to the state
25 for nonentry in the name of.....; or which
26 escheated to the state in the name of.....;
27 or which was waste and unappropriated land belonging
28 to the state;) and

29 Whereas, the report or the plat and description re-
30 quired by law has been duly filed with the clerk of the
31 circuit court; and

32 Whereas, the clerk of the circuit court has caused the
33 notice to redeem to be served on all persons required by
34 law to be served therewith; and

35 Whereas, the real estate so purchased has not been re-
36 deemed in the manner prescribed by law and the time for
37 redemption set in such notice has expired; and

38 Whereas, the Circuit Court of.....County
39 (or, Judge of the Circuit Court of
40County, in vacation,) has confirmed the
41 sale and has ordered that this deed be executed;

42 Now, therefore, the grantor, for and in consideration of
43 the premises and in pursuance of the statute, doth grant

44 unto....., grantee, his heirs and assigns for-
45 ever, the real estate so purchased, situate in the county
46 of....., bounded and described as follows:

47

48 Witness the following signature:

49

50 Deputy commissioner of Forfeited and

51 Delinquent Lands for.....County

52 After execution and acknowledgment of the deed, the
53 deputy commissioner shall obtain from the files of the
54 clerk of the circuit court the following papers relating to
55 the property conveyed; the report or plat and description,
56 the assignment from the purchaser if one was made, the
57 notice to redeem, the return of service of such notice, the
58 affidavit of publication if the notice was served by pub-
59 lication, and any return receipts for notices sent by regis-
60 tered mail. The deputy commissioner shall then ascertain
61 from the clerk of the county court the total amount of
62 the transfer fee and the fees for recording the deed and
63 the papers, and shall notify the grantee to pay such
64 amount to the clerk of the county court. Upon such pay-

65 ment and upon payment by the grantee to the deputy
66 commissioner of a fee of five dollars as his compensation
67 for executing the deed, the deputy commissioner shall
68 have the deed and the other papers recorded by the clerk
69 of the county court and shall then deliver them all to the
70 grantee. The purchaser shall have the right to examine
71 the deed before it is recorded.

Sec. 42. *Title to Vest in Public Land Corporation with-*
2 *out Deed; Record of Order Confirming Sale.*—Upon con-
3 firmation of a sale to the Public Land Corporation, title
4 to the real estate sold shall without any deed be vested
5 in the Public Land Corporation. A copy of the order
6 confirming the sale shall be sent by the clerk of the cir-
7 cuit court to the clerk of the county court who, after noting
8 the fact of confirmation on his record of delinquent lands,
9 shall record the order in the deed book in his office. No
10 fee shall be charged for such recording.

Sec. 43. *Title Acquired.*—Whenever under the provisions
2 of this article a purchaser, his heirs or assigns, shall have
3 obtained a deed for any real estate from the deputy com-
4 missioner, he or they shall thereby acquire all such right,

5 title, and interest, in and to the real estate, as was, at
6 the time of the execution and delivery of the deed, vested
7 in or held by any person who was entitled to redeem,
8 unless such person is one who, being required by law
9 to have his interest separately assessed and taxed, has
10 done so and has paid all the taxes due thereon, or unless
11 the rights of such person are expressly saved by the pro-
12 visions of section twenty-four, forty-five, forty-six, forty-
13 seven, or forty-nine of this article. The deed shall be
14 conclusive evidence of the acquisition of such title. The
15 title so acquired shall relate back to the date of the sale.
16 The title acquired by the public land corporation upon
17 confirmation of a sale to it shall be the same as that
18 acquired by an individual purchaser under the provisions
19 of this section.

Sec. 44. *Effect of Irregularity on Title Acquired.*—No
2 irregularity, error or mistake in respect to any step in the
3 procedure leading up to and including confirmation of
4 the sale or delivery of the deed shall invalidate the title
5 acquired unless such irregularity, error or mistake is, by
6 the provisions of section twenty-four, forty-five, forty-

7 six, or forty-seven of this article, expressly made ground
8 for instituting a suit to set aside the sale or the deed.
9 This and the preceding section are enacted in furtherance
10 of the purpose and policy set forth in section one, article
11 three of this chapter.

Sec. 45. *Right to Set Aside Sale or Deed when Land
2 was Not Subject to Sale.*—Any person entitled under the
3 provisions of section eighteen of this article to apply for
4 an order suspending the sale of any land, and not named
5 in section thirty-eight of this article as one entitled to
6 notice to redeem, who did not have actual knowledge of
7 the proposed sale in time to protect himself under the
8 provisions of section eighteen or of section thirty-nine of
9 this article, may, on or before the expiration of one year
10 after confirmation of the sale, whether the sale was to an
11 individual or to the Public Land Corporation, institute a
12 suit in equity to set aside the sale or the deed. If such
13 suit is instituted by or on behalf of the owner of an un-
14 divided interest which was included in a group assess-
15 ment but which was separately redeemed before certifica-

16 tion, the sale or the deed shall be set aside only in so far
17 as it affects his interest.

Sec. 46. Right to Set aside Deed Improperly Obtained.—

2 Whenever the deputy commissioner has delivered a deed
3 to a purchaser who was not entitled thereto either because
4 of his failure to meet the requirements of section thirty-
5 two of this article or because the property conveyed had
6 been redeemed, the former owner of such property, his
7 heirs or assigns, or the person who redeemed the property
8 may, on or before the expiration of one year after con-
9 firmation of the sale, institute a suit in equity to set
10 aside the deed. No deed shall be set aside under the pro-
11 visions of this section, except in the case of redemption,
12 until payment has been made or tendered to the pur-
13 chaser, or his heirs or assigns, of the amount which would
14 have been required for redemption, together with any
15 taxes which have been paid on the property since de-
16 livery of the deed, with interest at the rate of twelve
17 percent per annum.

*Sec. 47. Right to Set Aside Sale or Deed when One En-
2 titled to Notice Not Notified.—*If any person entitled to

3 be notified under the provisions of section thirty-eight of
4 this article is not served with the notice as therein pro-
5 vided and does not have actual knowledge that such no-
6 tice has been given to others in time to protect his inter-
7 ests by redeeming the property or by instituting pro-
8 ceedings under section thirty-nine of this article to set
9 aside the sale, he, his heirs or assigns, may, on or before
10 the expiration of one year after confirmation of the sale,
11 institute a suit in equity to set aside the sale or the deed.
12 No sale or deed shall be set aside under the provisions
13 of this section until payment has been made or tendered
14 to the Public Land Corporation or to the purchaser, his
15 heirs or assigns, of the amount which would have been
16 required for redemption, together with any taxes which
17 have been paid or are chargeable on the property since
18 the sale, with interest at the rate of twelve percent per
19 annum.

Sec. 48. *On Whose behalf Suits Instituted; Decree when*
2 *Sale or Deed Set Aside.*—Any suit instituted under the
3 provisions of either of the three preceding sections by a
4 person other than the owner, or the former owner, his

5 heirs or assigns, must be brought on his or their behalf
6 Whenever the sale or deed in such case is set aside the
7 decree shall be either that all the right, title, and in-
8 terest held or claimed by the state prior to the sale to the
9 extent that title is proved to be in the person named as
10 owner, is vested in such person, or that all the right
11 title and interest of the former owner, his heirs or as-
12 signs, is revested in him or them.

14 Sec. 49. *Redemption by Persons Under Disability.*—In
2 addition to and notwithstanding any other provisions of
3 this article, any infant or insane person, the former owner
4 of any forfeited or delinquent land which during such
5 disability was sold as provided in this article, may re-
6 deem such land from the Public Land Corporation, or its
7 assigns, or from an individual purchaser, his heirs or
8 assigns, at any time before the expiration of one year af-
9 ter removal of the disability, but in no event more than
10 twenty years after the sale was confirmed, by paying
11 such an amount as is required for redemption under
12 the provisions of section thirty-five, article three of this
13 chapter.

14 In the case of land sold to the Public Land Corporation,
15 he shall also pay such taxes as would have been charge-
16 able on such land had it been privately owned since the
17 sale. Except as here modified, all other provisions of sec-
18 tion thirty-five, article three of this chapter shall apply to
19 redemptions under this section.

20 As an alternative to the right of redemption provided
21 by this section, such infant or insane person may elect to
22 redeem forfeited land as provided in section six, article
23 thirteen of the constitution.

Sec. 50. *Annual Report of Deputy Commissioner to*
2 *Auditor.*—In December of each year the deputy commis-
3 sioner shall prepare a report showing the present status
4 of, and all steps which have been taken in the proceeding
5 in respect to, each item certified to the circuit court in
6 his county, final disposition of which is not shown in any
7 preceding annual report. Such report shall be prepared in
8 triplicate. On or before the last day of December the
9 original shall be sent to the auditor and one copy to the
10 clerk of the county court, each of whom shall make
11 any necessary notations on his record of delinquent lands.

12 The second copy shall be sent to the assessor who shall
13 make the necessary changes in his land books. For failure
14 to make the report required by this section, the deputy
15 commissioner shall forfeit one hundred dollars.

Sec. 51. *Sheriff to Keep Proceeds in Separate Account;*

2 *Disposition.*—The sheriff shall keep in a separate account
3 the proceeds of all redemptions and sales paid to him
4 under the provisions of this article. Out of such proceeds
5 he shall pay over quarterly to the auditor all state taxes
6 with interest, all redemption fees, and all charges which
7 were paid by or which are payable to the auditor. The
8 sheriff shall at the end of each quarter account for the
9 balance of the proceeds by crediting to the fund kept by
10 him for each local taxing unit such part of the balance
11 as represents taxes, interest and charges payable to such
12 unit.

Sec. 52. *Disposition of Pending Suits; Former Sales*

2 *Confirmed.*—All suits now pending in any circuit court
3 for the sale of lands for the benefit of the school fund shall
4 be and are hereby discontinued and dismissed. Any cir-
5 cuit court in which such a suit is pending shall make all

6 necessary orders for such discontinuance and dismissal.

7 All sales and conveyances made in any former circuit
8 court suits for the sale of lands for the benefit of the school
9 fund are hereby confirmed. Whatever right, title or in-
10 terest the state had in any land so sold, shall be deemed
11 to have vested in the purchaser or grantee thereof. Not-
12 withstanding any irregularity, error or mistake in such
13 suit or in the tax enforcement proceedings prior thereto,
14 such title shall not hereafter be subject to attack. This
15 paragraph is enacted in furtherance of the purpose and
16 policy set forth in section one, article three of this chapter.

17 *Sec. 53. Liability of Officer Failing to Perform Duty;*

18 *Penalty.*—If the deputy commissioner or any other officer
19 mentioned in this article shall fail or refuse to perform
20 any duty required of him, he and the sureties on his official
bond shall be liable in an action on the bond for such
damages as may be sustained by any person by reason of
such failure. In addition to this liability, he shall forfeit
not less than twenty-five nor more than one hundred dol-
lars for each such failure or refusal, unless a different
penalty is imposed by the provisions of this article.

Sec. 54 *Release of Taxes and Interest.*—In view of the
2 great uncertainty and confusion existing in the auditor's
3 records of delinquent lands for the years prior to one
4 thousand nine hundred twenty-nine, due to the insuf-
5 ficient and inadequate reports by former school land
6 commissioners, the legislature finds that it will be im-
7 possible to provide a speedy method for disposing of
8 delinquent and forfeited lands and for conveying to the
9 purchasers of such lands a secure title, unless some action
10 is taken to prevent the certification and sale of lands which
11 were formerly redeemed from or were sold by such com-
12 missioners, but which appear on the auditor's records, as
13 unsold and unredeemed. Wherefore, it is the purpose and
14 intent of the legislature to release all taxes, interest and
15 charges that may be due on any real estate in this state for
16 the assessment year one thousand nine hundred twenty-
17 eight and for all years prior thereto, and all such taxes,
18 interests and charges are hereby declared to be fully paid.
19 If all the taxes due on any land for the assessment year one
20 thousand nine hundred twenty-nine and for all years sub-
21 sequent thereto have been paid, all title to any such land

22 theretofore acquired by the state shall be and is hereby
23 released.

24 The auditor, in computing the amount necessary for re-
25 demption as provided in section eight, article three of this
26 chapter and in preparing the list of lands for certification
27 to the circuit court as provided in section nine of this
28 article, shall use the assessment year one thousand nine
29 hundred twenty-nine as the initial year for which taxes
30 shall be charged. He shall specify the year in which the
31 state acquired title, but if such year was prior to one
32 thousand nine hundred twenty-nine, shall charge no taxes
33 for any year prior thereto, nor shall he charge any interest,
34 fees, penalties or costs for the assessment year one thou-
35 sand nine hundred twenty-nine to and including one thou-
36 sand nine hundred thirty-two, but all interest, fees, pen-
37 alties and costs provided by law shall be charged for all
38 years subsequent to the year one thousand nine hundred
39 thirty-two.

Sec. 55. *Separability.*—If any part of this chapter shall
2 be declared unconstitutional, such declaration shall not
3 affect any other part thereof.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

C. H. McFrown

Chairman Senate Committee

Leon Rice

Chairman House Committee

Originated in the *House of Delegates*

Takes effect *from* passage.

W. J. Watson

Clerk of the Senate

Steff

Clerk of the House of Delegates

Byron Randolph

President of the Senate

Malcolm K. Donald

Speaker House of Delegates

The within *approved* this the *13th* day of *March*, 1941.

Matthew M. Neely
Governor.



Filed in the office of the Secretary of State of West Virginia. **MAR 13 1941**
Wm. S. O'BRIEN,
Secretary of State