

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945



ENROLLED

HOUSE BILL No. 269

(By Mr. Warden)



PASSED March 10 1945

In Effect 90-days from Passage

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AN ACT to provide for redemption of real property formerly held for religious, charitable and educational purposes and wrongly exempted from taxation; to provide procedure for stabilizing and protecting titles thereto, and establishing the rights of persons therein.

Be it enacted by the Legislature of West Virginia:

Section 1. The auditor, in his capacity as commissioner of forfeited and delinquent lands, is hereby authorized to compromise all claims of the state against all real property, including undivided interests therein, which, heretofore, may have been exempted from taxation and carried upon the land books of any county as tax exempt property, or which may have been exempted from taxation as religious, charitable or educational property regardless of the form of assessment or entry insofar as the state may now have any claim thereto and the prop-

erty, or any part thereof, or interest therein has not been transferred to others by operation of section three, article thirteen of the constitution of West Virginia, upon payment to him of the sum of one dollar for each year that any parcel, lot, tract or interest, heretofore exempted as aforesaid, may have been exempted or carried as exempt property upon the land books of any county prior to the year one thousand nine hundred forty-five. The auditor, as such commissioner, is hereby authorized to establish and provide administrative procedure for handling of such cases; and to design, procure and keep and maintain such records concerning his transactions under this article as sound business practice may demand, and charge the cost thereof to appropriations for the operation of his office and the proceeds of redemption hereunder.

Sec. 2. The auditor shall issue his receipt for redemptions made under the preceding section. Such receipt shall operate as a full and complete discharge and release of the property described therein from any and all claims on account of direct property taxes imposed or imposable by the state of West Virginia, or any of its

7 subdivisions, or agencies of every kind and character for
8 each and every year covered by such receipt, and shall
9 release and return to the owner of the property described
10 such title as may have been in the state at the time such
11 receipt is issued free and acquit of all claims of the state,
12 or any of its subdivisions for the year or years covered by
13 such receipt. Such receipts shall be recordable in the deed
14 books of the proper counties, and once recorded shall
15 constitute notice to all persons of the facts recited therein.

Sec. 3. In every case where the auditor provides for
2 redemption under this act he shall, where such redemption
3 is made prior to the first day of January, one thousand
4 nine hundred forty-seven, direct the assessor to enter
5 and back tax such property, as other property should be
6 entered and back taxed for the assessment year one thou-
7 sand nine hundred forty-five and each and every year
8 thereafter in which the same has not properly appeared
9 upon the land books of such county. In those cases where
10 redemption is made after the first day of January, one
11 thousand nine hundred forty-seven, he shall extend and
12 collect taxes at proper valuations and rates for all assess-

13 ment years after the year one thousand nine hundred
14 forty-five. No compromise shall be made under the au-
15 thority of this act for direct property taxes for the year
16 one thousand nine hundred forty-five or thereafter: *Pro-*
17 *vided, however,* That nothing herein contained shall pre-
18 vent the auditor from redetermining value and taxes for
19 the year one thousand nine hundred forty-five and there-
20 after in the manner otherwise provided for by law in
21 case of redemption of property which may have been
22 sold to the state for nonpayment of taxes, or be delin-
23 quent, or forfeit for nonentry.

Sec. 4. In every case where real property was acquired
2 for and transferred to or placed in religious, educational
3 or charitable usages after the assessment year one thou-
4 sand nine hundred forty-two and was improperly ex-
5 empted (under the holding of Central Realty company
6 versus Martin, assessor), the assessor shall re-enter such
7 property and value and extend taxes thereupon for the
8 assessment year one thousand nine hundred forty-five,
9 without regard to the former exemption in those cases
10 where redemption has been made from the auditor. Taxes

11 extended upon such assessment shall be valid and en-
12 forceable as all other taxes without regard to the former
13 exemptions. Entry and payment of taxes hereunder shall
14 operate to relieve such property against the assertion of
15 any forfeiture which has not become effective prior to the
16 effective date of this act, and shall stand and at all times
17 be construed as a valid entry of such property for tax-
18 ation for the year or years involved, and payment of taxes
19 under such assessment shall discharge and relieve such
20 property from all claims of the state and its subdivisions
21 for all property taxes of any such year or years.

Sec. 5. The auditor is empowered to direct the assessor
2 of each county to examine the lists of tax exempt prop-
3 erties appearing on the land books of his county for the
4 assessment years one thousand nine hundred twenty-eight
5 through one thousand nine hundred forty-five, both in-
6 clusive, and report to the auditor a list of all real estate
7 so exempted from taxation in any of said years which was
8 not actually used for religious, charitable or educational
9 purposes and which (under the opinion in Central Realty
10 company versus Martin, assessor) he believes should have

11 been assessed with taxes in any of said years. No assessor
12 shall reenter any real property, now or formerly held for
13 religious, charitable or educational usages and upon which
14 taxes for years prior to the year one thousand nine hun-
15 dred forty-five should have been paid except upon written
16 directions from the auditor or by order of the judge of
17 a court of record which has jurisdiction to deal with such
18 property or rights therein. Such list shall show the name
19 of the person assessed, a description of the property, and
20 the year or years for which the same was entered on the
21 land books as tax exempt, and the assessor shall classify
22 and value the same. Where any list of real property is
23 forwarded to the auditor under this section he shall have
24 power and authority to compromise the claim of the
25 state or its subdivisions or agencies for taxes, to accept
26 redemptions from forfeitures, and to do all acts and things
27 which may be necessary to protect the interest of the
28 state and assist the property owner in clearing his title.

Sec. 6. In all cases where property formerly held for
2 religious, charitable or educational usages has heretofore
3 been sold or transferred in good faith to persons for value

4 as successors in title of the person who held for such
5 usage, and has been subsequently assessed to them and
6 taxes have been paid thereon for such number of years
7 that such persons are or would otherwise be entitled to
8 claim the benefit of a transfer under section three, article
9 thirteen of the constitution, the same, by operation here-
10 of, shall be transferred to and vested in such person, and
11 the state hereby waives its claim to assert penalties or
12 forfeiture on account of any taxes which would otherwise
13 have accrued or become due prior to the creation of color
14 of title in such successor.

15 In all cases where property formerly held for the uses
16 aforesaid has heretofore been sold or transferred to an-
17 other in good faith and has subsequently been assessed
18 to him, and the taxes paid, for a period of time less than
19 the period of time necessary to establish the right to
20 claim the benefit of a transfer under said constitutional
21 provision of this section, the owners shall have the right
22 to apply for and have redemption so far as title thereto
23 may be in the state.

Sec. 7. The provisions of this act shall not extend to

2 or affect any real property or undivided interest therein
3 which has been transferred to or vested in adverse claim-
4 ants by operation of section three, article thirteen of the
5 constitution of West Virginia in those cases where the
6 color of title of such claimants originated in good faith
7 and has been regularly maintained and protected against
8 subsequent forfeiture and loss by entry and payment of
9 taxes according to law: *Provided, however,* That in any
10 case where there has been a constitutional transfer and
11 the adverse claim has subsequently been acquired by the
12 state for nonpayment or nonentry, the successor in title to
13 the former religious, charitable or educational usage shall
14 have a prior right of redemption.

Sec. 8 This act is to provide for clarification of land
2 titles and for establishment of a sound system of property
3 law and of taxation, and the courts of this state which
4 have equitable jurisdiction are hereby vested with au-
5 thority, power and jurisdiction to entertain, hear and
6 decide suits on behalf of any person whose property or
7 title may be affected by a former exemption from taxa-
8 tion for religious, charitable or educational purposes; and

9 to make and render such decisions, orders and decrees as
10 will give equitable justice to the persons involved. When-
11 ever it appears that the state or any of its subdivisions
12 has any interest in any of such proceedings any person or
13 the court shall have the right to make the state, its sub-
14 divisions, or proper officials a party or parties plaintiff
15 thereto and shall cause the attorney general of the state
16 of West Virginia to be notified thereof. Such courts
17 shall have the right to try title and render decisions as
18 may be necessary and proper, based upon the tax status
19 of different claims without regard to proof of chain of
20 title for a period longer than is necessary to establish a tax
21 claim better than that of any other party. No decision,
22 order or opinion rendered by any court under this act
23 shall establish precedent or be regarded as stare decisis
24 as to any other case.

Sec. 9. The auditor shall have full power and authority
2 to provide for redemption of property covered by this
3 act, and to compromise the state's claim for unpaid taxes
4 upon any such property which has heretofore been pur-
5 chased at sales for non-payment of taxes, or acquired by

6 forfeiture for non-entry, to make redemptions, and to
7 provide for reassessment and back taxing of property
8 redeemed on account of any taxes heretofore levied or
9 hereafter to accrue; such redemptions and compromises
10 to be made upon like payment and condition as provided
11 in section one of this act for any year prior to the year
12 one thousand nine hundred thirty-six.

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

Charles C Morris
Chairman Senate Committee

J. A. DeLongue Jr.
Chairman House Committee

Originated in the

House

Takes effect

90-days from

passage.

Thomas H. Hughes
Clerk of the Senate

J. R. Shipp
Clerk of the House of Delegates

Arnold W. Tickers
President of the Senate

John E. Amos
Speaker House of Delegates

The within

Approved

this the

16th

day of

March

, 1945.

Wm. S. O'Brien
Governor.



Filed in the office of the Secretary of State
of West Virginia MAR 16 1945
Wm. S. O'BRIEN,
Secretary of State