

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949

ENROLLED

SENATE BILL No. 230

(By Mr. Eddy)

PASSED March 5 1949

In Effect From Passage



230

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Senate Bill No. 230

(By MR. EDDY)

[Passed March 5, 1949; in effect from passage.]

AN ACT to amend and reenact sections seventeen, twenty-four, twenty-eight, twenty-nine, thirty-four and thirty-six, article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the collection and enforcement of property taxes, including the redemption of forfeited, and delinquent lands and the sale of forfeited, delinquent, escheated, and waste and unappropriated lands for the benefit of the school fund.

Be it enacted by the Legislature of West Virginia:

That sections seventeen, twenty-four, twenty-eight, twenty-nine, thirty-four and thirty-six, article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-

one, as amended, be amended and reenacted to read as follows:

Section 17. *Compensation of Deputy Commissioner;*

2 *Court Costs.*—As compensation for his services, the deputy
3 commissioner shall be entitled to an attorney's fee of ten
4 dollars for each item included in the suit and the one dol-
5 lar fee provided for in a former law for each tract certified
6 to the circuit court of his county prior to March 8, 1947.
7 In addition thereto he shall receive a commission of ten
8 per cent on each sale or redemption. Such commission on
9 sales shall be based on the sale price and in the case of
10 redemption on the total taxes and interest due. Such
11 compensation shall be collected from the redeмпtor as
12 provided for in section eighteen of this article. Such com-
13 pensation, together with a charge of one dollar payable
14 to the clerk of the circuit court for each item in the suit,
15 shall be taxed to the state as part of its costs in the suit
16 and shall be paid as hereinafter provided. Except as other-
17 wise provided in this article, no other costs shall be
18 taxed.

Sec. 24. *Sale by Deputy Commissioner; Receipt for*

2 *Purchase Price; Report to Circuit Court.*—On the day

3 fixed by order of the court the deputy commissioner shall
4 sell, in the manner specified in the notice of sale, each
5 unredeemed item included in the published list of lands
6 to be sold. If the sale is not completed on that day, it shall
7 be continued from day to day until all the land has been
8 offered for sale. If in respect to any land no bid is made,
9 the deputy commissioner shall report the fact to the court,
10 and the court may order that such land be sold at a subse-
11 quent sale with or without additional advertising.

12 For the purpose of receiving the proceeds of the sale, it
13 shall be the duty of the sheriff or one of his deputies to
14 attend all sales conducted by the deputy commissioner
15 in his county. The sheriff or deputy shall issue to the
16 purchaser a receipt for the purchase money. The auditor
17 may prescribe the form of the receipt.

18 The deputy commissioner shall prepare a report for the
19 circuit court which shall show what was done with respect
20 to all lands ordered to be sold. The report shall state as
21 to each item whether it was redeemed before sale or was
22 sold, and the name of the purchaser and the amount of

23 his bid. The report shall, within thirty days after the
24 sale, be filed with the clerk of the circuit court.

Sec. 28. *Right of Former Owner to Surplus Proceeds.*—

2 The former owner of any forfeited or delinquent lands,
3 his heirs or assigns, shall be entitled to the surplus
4 received from the sale over and above the taxes and in-
5 terest charged or chargeable thereon including all court
6 costs in the suit in which such land was sold, if his, or
7 their claim be filed in the circuit court that decreed the
8 sale, within two years after the date of confirmation of
9 said sale. If no claim is filed with the court within the
10 two years, then such surplus shall be paid by the sheriff
11 to the auditor for credit to the general school fund.

Sec. 29. *Right of Creditor of Former Owner of Escheat-*

2 *ed Land.*—Any surplus proceeds arising from the sale of
3 escheated land, after the payment of all court costs in the
4 suit in which such land was sold, may be applied for by
5 the creditors of the decedent if application is made to the
6 circuit court that decreed the sale within one year after
7 the date of confirmation of said sale. Upon proper appli-
8 cation to the court within such time such surplus may be

9 applied to the satisfaction of the claims of creditors of the
10 decedent who had a lien on the land at the time of his
11 death, or who, being general creditors, have properly
12 proved their claims against his estate and have been
13 unable to obtain payment out of the personalty. In the
14 disposition of such surplus, due preference shall be given
15 to lien creditors. Any part of such surplus thereafter re-
16 maining shall be paid by the sheriff to the auditor for
17 credit to the general school fund.

Sec. 34. *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 delinquent land which during such disability was
5 sold as provided in this article, may redeem such land
6 from the purchaser, his heirs or assigns, at any time be-
7 fore the expiration of one year after removal of the dis-
8 ability but in no event more than twenty years after the
9 sale was confirmed, by paying such an amount as is re-
10 quired for redemption under the provisions of section
11 thirty-five, article three of this chapter.
12 Any forfeited land, or any interest therein sold under

13 the provisions of this article owned at the time of the
14 forfeiture by an infant, married woman or insane person,
15 may be redeemed by such owner until the expiration of
16 three years after the removal of such disability as is pro-
17 vided in section six, article thirteen of the constitution of
18 this state, provided such right to redeem shall in no case
19 extend beyond twenty years from the time such land was
20 forfeited.

Sec. 36 *Sheriff to Keep Proceeds in Separate Accounts;*

2 *Disposition.*—The sheriff shall keep in a separate fund the
3 proceeds of all redemptions and sales paid to him under
4 the provisions of this article, and shall keep a separate
5 account of the proceeds of the sales and redemptions of
6 all lands included in each suit. Out of the total proceeds
7 of each suit he shall in the order of priority stated below
8 credit the following amounts, for payment as herein-
9 after provided: (1) To the clerk of the circuit court, such
10 part of the court costs taxed in the suit as represents the
11 publication charges incurred under the provisions of sec-
12 tions twelve and twenty-three of this article, and the
13 charge of one dollar per item provided for in section sev-

14 enteen of this article. (2) To the sheriff, such part of the
15 court costs taxed in the suit as represents the fees due him
16 under the provisions of section twelve of this article. (3)
17 To the deputy commissioner, such part of the court costs
18 as represents compensation due him under the provisions
19 of section seventeen of this article. (4) To the auditor,
20 such part as represents any charges which were paid by
21 or which are payable to him. (5) To the general county
22 fund, such part as represents costs paid out of such fund
23 for publishing the sheriff's delinquent and sales list. (6)
24 Surplus proceeds from the sale of delinquent, forfeited
25 and escheated lands shall be held by the sheriff for the
26 periods provided for in sections twenty-eight and twenty-
27 nine of this article, and if no application is made to the
28 circuit court within the time therein specified, such sur-
29 plus shall be paid to the auditor for credit to the general
30 school fund. (7) To the auditor for credit to the general
31 school fund, such part as represents all taxes and inter-
32 est chargeable in respect to any forfeited lands, and all
33 surplus proceeds of the sale of any waste and unappropri-
34 ated lands.

35 The balance, if any, of the proceeds of the lands included
36 in each suit shall be prorated among the various taxing
37 units on the basis of the total amount of taxes due them in
38 respect to the lands that were sold or redeemed. The
39 amounts so determined shall be credited as follows, for
40 payment as hereinafter provided: (1) To the auditor,
41 such part as represents state taxes and interest. (2) To
42 the fund kept by the sheriff for each local taxing unit,
43 such part as represents taxes and interest payable to such
44 unit.

45 All amounts which under the provisions of this section
46 were so credited by the sheriff to the clerk of the circuit
47 court, to the sheriff, and to the deputy commissioner shall
48 be paid to them quarterly; those credited to the auditor
49 shall be paid to him semi-annually; and those credited to
50 the various local taxing units shall be transferred semi-
51 annually by the sheriff to the fund kept by him for each
52 such taxing unit.

53 The tax commissioner, in cooperation with the land de-
54 partment in the auditor's office, shall prescribe the form
55 of the records to be kept by the sheriff for the purposes of

56 this section, and the method to be used by him in making
57 the necessary pro rata distributions.

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

James L. McNeer
Chairman Senate Committee

Robert Matthews
Chairman House Committee

Originated in the Senate.

Takes effect *From* passage.

Howard Myers
Clerk of the Senate


J. Smith
Clerk of the House of Delegates

Franklin D. Houston
President of the Senate

W. E. [Signature]
Speaker House of Delegates

The within *APPROVED* this the *10th*
day of *MARCH*, 1949.

Clay L. Patton
Governor.

 ² Filed in the Office of the Secretary of State
of West Virginia
MAR 11 1949
D. PITT O'BRIEN,
SECRETARY OF STATE