

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963

ENROLLED

SENATE BILL NO. 163

(By Mr. Moreland)

PASSED March 8 1963

In Effect From Passage



Filed in Office of the Secretary of State
of West Virginia 3-15-63

JOE F. BURDETT
SECRETARY OF STATE

#163

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Senate Bill No. 163

(By MR. MORELAND)

[Passed March 8, 1963; in effect from passage.]

AN ACT to amend and reenact sections seventeen, twenty, twenty-three, twenty-four, twenty-eight, thirty, thirty-one, thirty-two, forty-three and forty-four, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend article four of said chapter by adding thereto a new section, designated section nine-a, all relating to the sale of land for nonpayment of taxes thereon.

Be it enacted by the Legislature of West Virginia:

That sections seventeen, twenty, twenty-three, twenty-four, twenty-eight, thirty, thirty-one, thirty-two, forty-three and forty-four, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be

amended and reenacted, and that article four of said chapter be amended by adding thereto a new section, designated section nine-a, all to read as follows:

**CHAPTER 11A. COLLECTION AND ENFORCEMENT
OF PROPERTY TAXES.**

Article 3. Sale of Land for Taxes.

Section 17. Redemption from Purchase by Individual;

2 Receipt; List of Redemptions; Lien.—After the sale, the
3 former owner of, or any other person who was entitled to
4 pay the taxes on, any real estate purchased by an indi-
5 vidual, may redeem at any time before April first of the
6 second year following the sale. In order to redeem, he must
7 pay to the purchaser, his heirs or assigns, the following
8 amounts: (1) The amount of purchase money paid to
9 the sheriff, with interest at the rate of twelve per cent
10 per annum from the date of sale. (2) All other taxes
11 thereon, which have since been paid by the purchaser, his
12 heirs or assigns, with interest at the rate of twelve per
13 cent per annum from the date of payment. (3) Such
14 additional expenses as may have been incurred in procur-
15 ing the survey or report provided for in sections twenty-

16 one and twenty-two of this article; and for the examina-
17 tion of the title in order to prepare the list of those to be
18 served with notice and giving the notice required by sec-
19 tions twenty-three and twenty-four of this article, but the
20 amount he shall be required to pay for the expenses in-
21 curred in preparing the list of those to be served with
22 notice to redeem, required by sections twenty-three and
23 twenty-four of this article, shall not exceed fifteen dollars.

24 The person redeeming shall be given duplicate receipts
25 for the payment. If the purchaser, his heirs or assigns,
26 shall refuse or fail to sign and give such receipts when
27 lawfully required to do so, he or they shall pay to the
28 person redeeming twice the amount of such payment,
29 which may be recovered by action on the case in any
30 court of competent jurisdiction. One of such receipts shall
31 be filed with the clerk of the county court on or before the
32 day on which the right to redeem expires. The clerk shall
33 endorse on both receipts the fact and time of such filing,
34 and shall note the fact of redemption on his record of de-
35 linquent lands. If the receipt is not filed on or before such
36 date, the redemption shall be void as to creditors and sub-

37 sequent bona fide purchasers from the purchaser, his heirs
38 or assigns. If, however, the receipt is filed after the date
39 required, it shall operate as notice from and after the date
40 of filing. In April of each year the clerk of the county
41 court shall prepare and certify to the auditor a list of
42 all redemptions from sales to individual purchasers, which
43 have not been included in any former list.

44 Any person who, by reason of the fact that no provision
45 is made for partial redemption of real estate purchased
46 by an individual, is compelled in order to protect himself
47 to redeem all of such real estate when it belongs in whole
48 or in part to some other person, shall have a lien on the
49 interest of such other person for the amount paid to re-
50 deem such interest. He shall lose his right to the lien,
51 however, unless within thirty days after payment he shall
52 file with the clerk of the county court his claim in writ-
53 ing against the owner of such interest, together with the
54 receipt provided for in this or the following section. The
55 clerk shall docket the claim on the judgment lien docket
56 in his office and properly index the same. Such lien may
57 be enforced as other judgment liens are enforced.

Sec. 20. What Purchaser Must Do Before He Can Se-

2 **cure Deed.**—At any time after October thirty-first of the
3 year following the sale, and on or before December thirty-
4 first of the same year, the purchaser, his heirs or assigns,
5 in order to secure a deed for the real estate purchased,
6 must: (1) Secure and file with the clerk of the county
7 court the survey or report provided for in sections twenty-
8 one and twenty-two of this article; (2) examine the title
9 in order to prepare a list of those to be served with notice
10 to redeem and request the clerk to prepare and serve the
11 notice as provided in sections twenty-three and twenty-
12 four of this article; and (3) deposit, or offer to deposit,
13 with the clerk a sum sufficient to cover the cost of pre-
14 paring and serving the notice. For failure to meet these
15 requirements, the purchaser shall lose all the benefits of
16 his purchase.

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

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 purchaser (or
7 _____, the assignee, heir or devisee of _____, the
8 purchaser) of the following real estate, _____,
9 (here describe the real estate sold) located in _____,
10 (here name the city, town or village in which the real
11 estate is situated or, if not within a city, town or village,
12 give the district and a general description) which was re-
13 turned delinquent in the name of _____, and was sold
14 by the Sheriff of _____ County at the sale for delinquent
15 taxes made on the _____ day of _____, 19____, has requested
16 that you be notified that a deed for such real estate will be
17 made to him on or after the first day of April, 19____, as
18 provided by law, unless before that day you redeem such
19 real estate. The amount you will have to pay to redeem
20 on the last day, March thirty-first, will be as follows:

21 Amount paid sheriff at sale, with interest to March
 22 31st\$.....

23 Amount of taxes paid on the property, since the sale,
 24 with interest to March 31st.....\$.....

25 Amount paid for survey and report.....\$.....

26 Amount paid for preparation of list of those to be served,
 27 and for preparation and service of the notice...\$.....

28 Total.....\$.....

29 You may redeem at any time before March thirty-first
 30 by paying the above total less any unearned interest.

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

32

33 Clerk of the County Court of
 34County,

35 State of West Virginia.

36 The clerk for his service in preparing the notice shall
 37 receive a fee of fifty cents for the original and twenty-
 38 five 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 be,
9 if a conveyance of such real estate is recorded or filed for
10 record in the office of the clerk; (3) any person having a
11 lien upon such real estate disclosed by any paper recorded
12 in the clerk's office; and (4) any other person having such
13 an interest in the property as would entitle him to redeem,
14 if the existence of such interest appears of record.

15 The notice shall be personally served upon all such per-
16 sons residing or found in the state in the manner provided
17 for serving process commencing a suit, on or before the
18 first day of February following the request for such notice.
19 If any person entitled to notice is a nonresident of the state
20 or if his residence is unknown to the clerk and cannot by
21 due diligence be discovered, the notice shall be served
22 by publication once a week for three successive weeks in
23 some newspaper published in the county in which such
24 real estate is located, or if no newspaper is published in

25 the county, then in some newspaper of general circulation
26 in the county. If service by publication is necessary, pub-
27 lication shall be commenced within two weeks after Feb-
28 ruary first, and a copy of the notice shall at the same time
29 be sent by registered mail, return receipt requested, to the
30 last known address of the person served. The return of
31 service of such notice and the affidavit of publication, if
32 any, shall be in the manner provided for process generally
33 and shall be filed and preserved by the clerk in his office,
34 together with any return receipts for notices sent by regis-
35 tered mail.

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 execution
8 and delivery of the deed, vested in or held by any person
9 who was entitled to redeem, unless such person is one
10 who, being required by law to have his interest separately

11 assessed and taxed, has done so and has paid all the taxes
12 due thereon, or unless the rights of such person are ex-
13 pressly saved by the provisions of sections sixteen, thirty,
14 thirty-one, thirty two or thirty-five of this article. The
15 tax deed shall be conclusive evidence of the acquisition
16 of such title. The title so acquired shall relate back to
17 July first of the year in which the taxes, for nonpayment
18 of which the real estate was sold, were assessed.

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 assigns,
5 or the person who paid the taxes, may, on or before
6 October thirty-first of the third year following the sale,
7 whether the sale was to an individual or to the state,
8 institute a civil action to set aside the sale and to enjoin
9 the proper official from taking any further steps in the
10 procedure provided in this and the following article, or,
11 if a deed has been delivered to the purchaser, to set aside
12 the deed. If such suit is instituted by or on behalf of the
13 owner of an undivided interest which was included in a

14 group assessment but which was separately redeemed as
15 provided in section eighteen, article two of this chapter,
16 the sale or the deed shall be set aside only insofar as it
17 affects his interest.

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

2 —Whenever the clerk of the county court has delivered
3 a 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 con-
8 veyed had been redeemed, the owner of such property,
9 his heirs and assigns, or the person who redeemed the
10 property, may, on or before October thirty-first of the
11 third year following the sale, institute a civil action to
12 set aside the deed. No deed shall be set aside under the
13 provisions of this section, except in the case of redemp-
14 tion, until payment has been made or tendered to the
15 purchaser, or his heirs or assigns, of the amount which
16 would have been required for redemption, together with
17 any taxes which have been paid on the property since

18 delivery of the deed, with interest at the rate of twelve
19 per cent 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 article
4 is not served with the notice as therein required, and does
5 not have actual knowledge that such notice has been
6 given to others in time to protect his interests by redeem-
7 ing the property, he, his heirs and assigns, may, on or
8 before October thirty-first of the third year following the
9 sale, institute a civil action to set aside the deed. No
10 deed shall be set aside under the provisions of this section
11 until payment has been made or tendered to the pur-
12 chaser, or his heirs or assigns, of the amount which would
13 have been required for redemption, together with any
14 taxes which have been paid on the property since delivery
15 of the deed, with interest at the rate of twelve per cent
16 per annum.

Sec. 43. Certification by Sheriff of Delinquent Taxes.—
2 In the event any part of article three of this chapter be
3 declared to be unconstitutional so that it is impossible for

4 the sheriff to collect delinquent taxes upon any property,
5 which are in his hands for collection, or make sale thereof
6 pursuant to the provisions of this chapter, then and in
7 that event the sheriff shall prepare and certify to the
8 auditor, on or after the first day of October, and on or be-
9 fore the first day of November, of the year next following
10 the year for which such taxes may have been levied, a
11 list or lists of such taxes which are delinquent. The lien
12 of such taxes upon all such property shall remain in force
13 and in effect until enforced or the taxes paid. After certi-
14 fication to the auditor, the auditor shall have the right to
15 receive collection of any such taxes, and shall retain such
16 lists pending the further enactment by the Legislature of
17 West Virginia of statutes relating to the enforcement of
18 the lien for taxes and sale and disposition of any property
19 subject to such liens.

Sec. 44. Exception.—Notwithstanding the provisions of
2 sections two, four, five, fourteen, seventeen, twenty, twen-
3 ty-three, twenty-four, twenty-eight, thirty, thirty-one,
4 thirty-two, and forty-three of this article, the provisions
5 of this article as of January first, one thousand nine hun-

6 dred sixty-one, shall govern the sale of land for taxes
7 levied upon assessed values as of January first, one thou-
8 sand nine hundred sixty-one, or prior years.

Article 4. Sale of Lands for School Fund.

Section 9-a. Exception.—Notwithstanding the provi-
2 sions of section nine of this article, the provisions of this
3 article as of January first, one thousand nine hundred
4 sixty-one, shall govern the sale of land for taxes levied
5 upon assessed values as of January first, one thousand
6 nine hundred sixty-one, or prior years.

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

O. Ray Parker

Chairman Senate Committee

Ethel L. Randall

Chairman House Committee

Originated in the Senate.

Takes effect From passage.

John H. Myers

Clerk of the Senate

Ch Blankenship

Clerk of the House of Delegates

Howard W. Carson

President of the Senate

Julius W. Singleton Jr.

Speaker House of Delegates

The within approved this the 14th

day of March, 1963.

W. W. Bann

Governor