WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993

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ENROLLED

HOUSE BILL No. 2781

(By Delegates Reed, Manuel, Huffman, Altason,)

Trump, Firestott & Faircloth

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Passed ........................................... April 10, 1993

In Effect ...................................... July 1, 1993

Passage
AN ACT to amend and reenact section three, article one, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections ten and thirteen, article two of said chapter; and to amend and reenact articles three and four of said chapter, all relating to delinquent taxes and the sale of tax liens on land for which taxes have become delinquent; and to the sale of escheated lands.

Be it enacted by the Legislature of West Virginia:

That section three, article one, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections ten and thirteen, article two of said chapter, be amended and reenacted; and that articles three and four of said chapter be amended and reenacted, all to read as follows:

ARTICLE 1. ACCRUAL AND COLLECTION OF TAXES.

§11A-1-3. Accrual; time for payment; interest on delinquent taxes.

1 (a) All current taxes assessed on real and personal property may be paid in two installments. The first installment shall be payable on September first of the year for which the assessment is made, and shall become delinquent on October first; the second installment shall be payable on the first day of the following March and
shall become delinquent on April 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 taxes on
personal property are not paid on or before the date on
which they become delinquent, including both first and
second installments, interest at the rate of nine percent
per annum shall be added from the date they become
delinquent until paid. If taxes on real property are not
paid on or before the date on which they become
delinquent, including both first and second installments,
interest at the rate of twelve percent per annum shall
be added from the date they become delinquent until
paid.

(b) With regard to real and personal property taxes,
when any return, claim, statement or other document is
required to be filed, or any payment is required to be
made within a prescribed period or before a prescribed
date, and the applicable law requires delivery to the
office of the sheriff of a county of this state, the methods
prescribed in section five-f, article ten, chapter eleven
of this code for timely filing and payment to the tax
commissioner or department of tax and revenue shall be
the same methods utilized for timely filing and payment
with such sheriff. Nothing contained in this subsection
(b) shall prohibit the sheriff from establishing additional
methods of payment in accordance with the provisions
of section eight-a of this article.

ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING
PAYMENT.


the same time a copy of each list shall be published as a Class I-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county. Only the aggregate amount of the taxes owed by each person need be published. To cover the costs of preparing, publishing and posting the delinquent lists, a charge of ten dollars shall be added to the taxes and interest already due on each item listed.

Any person whose taxes were delinquent on May first may have his name removed from the delinquent lists prior to the time the same is delivered to the newspapers for publication by paying to the sheriff the full amount of the taxes and costs owed by such person at the date of such redemption. The sheriff shall collect a charge of only three dollars if redemption is made before the list is delivered for publication. Costs collected by the sheriff hereunder which are not expended for publication shall be paid into the general county fund.

ARTICLE 3. SALE OF TAX LIENS AND ESCHEATED LAND.

§11A-3-1. Declaration of legislative purpose and policy.

In view of the paramount necessity of providing regular tax income for the state, county and municipal governments, particularly for school purposes; and in view of the further fact that delinquent land not only constitutes a public liability, but also represents a failure on the part of delinquent private owners to bear a fair share of the costs of government; and in view of the rights of owners of real property to adequate notice and an opportunity for redemption before they are divested of their interests in real property for failure to pay taxes or have their property entered on the land books; and in view of the fact that the circuit court actions heretofore required prior to certain sales of delinquent lands are unnecessary and a burden on the judiciary of the state; and in view of the state's need to utilize all of its resources, there being no land which the Legislature considers to be waste; and in view of the history of the titles to lands in this state from which the Legislature finds that all lands of the state designated
prior to the enactment of this article as unappropriated
are merely land for which ownership cannot readily be
determined; and in view of the Legislature's determina-
tion that county governments are the more appropriate
governmental entity for the control and disposition of
delinquent and escheated lands located within their
boundaries; now therefore, the Legislature declares that
its purposes in the enactment of this article are as
follows: First, to provide for the speedy and expeditious
enforcement of the tax claims of the state and its
subdivisions; second, to provide for the transfer of
delinquent lands to those more responsible to, or better
able to bear, the duties of citizenship than were the
former owners; third, to secure adequate notice to
owners of delinquent property of the pending issuance
of a tax deed; fourth, to permit the county commissions
of the various counties of this state to sell, convey or
otherwise dispose of such lands without the necessity of
proceedings in the circuit courts; fifth, to reduce the
expense and burden on the state and its subdivisions of
tax sales so that such sales may be conducted in an
efficient manner while respecting the due process rights
of owners of real property; sixth, in furtherance of the
policy favoring the security of land titles, to establish an
efficient procedure that will quickly and finally dispose
of all claims of the delinquent former owner and secure
to the new owner the full benefit of his purchase;
seventh, to grant to the counties the authority to control
the disposition of delinquent and escheated lands located
within their boundaries.

§11A-3-2. Second publication of list of delinquent real
estate; notice.

(a) On or before September tenth of each year, the
sheriff shall prepare a second list of delinquent lands,
which shall include all real estate in his county
remaining delinquent as of September first, together
with a notice of sale, in form or effect as follows:

Notice is hereby given that tax liens for the following
described tracts or lots of land or undivided interests
therein in the County of ____________ which are
delinquent for the nonpayment of taxes for the year (or
years) 19 _______, will be offered for sale by the
undersigned sheriff (or collector) at public auction at the
front door of the courthouse of the county, between the
hours of ten in the morning and four in the afternoon,
on the ___________ day of ______________, 19
_____.

Tax liens on each unredeemed tract or lot, or each
unredeemed part thereof or undivided interest therein,
will be sold at public auction to the highest bidder for
cash in an amount which shall not be less than the taxes,
interest and charges which shall be due thereon to the
date of sale, as set forth in the following table:

<table>
<thead>
<tr>
<th>Name of Person of description with taxes charged</th>
<th>Quantity of land</th>
<th>Local charges due to</th>
<th>Total amount of taxes and interest and date of sale</th>
</tr>
</thead>
</table>

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

Given under my hand this ___________ day of
______________, 19 ______.

Sheriff (or collector).

The sheriff shall publish the list and notice prior to
the sale date fixed in the notice as a Class III-O legal
advertisement in compliance with the provisions of
article three, chapter fifty-nine of this code, and the
publication area for such publication shall be the county.

(b) In addition to such publication, no less than thirty
days prior to the sale the sheriff shall send a notice of
such delinquency and the date of sale by certified mail
to the last known address of each person whose taxes
are delinquent and to each person having a lien on real
property upon which the taxes are due, as disclosed by
a statement filed with the sheriff pursuant to the
provisions of section three of this article: Provided, That in a case where one owner owns more than one parcel of real property upon which taxes are delinquent, the sheriff may, at his option, mail separate notices to the owner and each lienholder for each parcel, or may prepare and mail to the owner and each lienholder a single notice which pertains to all such delinquent parcels. If he elects to mail only one notice, that notice shall set forth a legally sufficient description of all parcels of property on which taxes are delinquent. In no event shall failure to receive the mailed notice by the landowner or lienholder affect the validity of the title of the property conveyed if it is conveyed pursuant to section twenty-seven of this article.

(c)(1) To cover the cost of preparing and publishing the delinquent list to the landowner, a charge of ten dollars shall be added to the taxes, interest and charges already due on each item and all such charges shall be stated in the list as a part of the total amount due.

(2) To cover the cost of preparing and mailing notice to the landowner and any lienholder, a charge of five dollars per addressee shall be added to the taxes, interest and charges already due on each item and all such charges shall be stated in the list as a part of the total amount due.

(d) Any person, whose taxes were delinquent on September first, may have his name removed from the delinquent list prior to the time the same is delivered to the newspapers for publication by paying to the sheriff the full amount of taxes and costs owed by such person at the date of such redemption. In such case, the sheriff shall include but three dollars of the costs provided in this section in making such redemption. Costs collected by the sheriff hereunder which are not expended for publication and mailing shall be paid into the general county fund.

§11A-3-3. Waiver of notice by person claiming lien.

Any person claiming a lien against real property shall be deemed to have waived any right to notice provided by sections two and twenty-six of this article unless he
shall have filed a statement declaring such interest with
the sheriff. Such statement shall be filed annually
during the month of July.

Such statement shall be on a form prescribed by the
tax commissioner and shall include the name of the
person charged with taxes for the real property; the tax
map and parcel number of the property; a description
of the interest claimed; and the address to which notice
is to be sent.

At least once a year prior to July first, the sheriff shall
publish a notice that any person claiming a lien against
taxable real property must file the annual statement
required by this section or such person will be deemed
to have waived any right to notice provided by the
preceding section. The notice shall be published as a
Class I legal advertisement in compliance with the
provisions of article three, chapter fifty-nine of this code,
and the publication area for such publication shall be
the county in which such land is located.

§11A-3-4. Redemption after second publication and
before sale.

Any of the real estate included in the list described
in section two of this article may be redeemed at any
time before sale as provided in section eighteen, article
two of this chapter.

§11A-3-5. Sale by sheriff.

The tax lien on each unredeemed tract or lot, or each
unredeemed part thereof or undivided interest therein
shall be sold by the sheriff at public auction to the
highest bidder for cash, between the hours of ten in the
morning and four in the afternoon on any Monday after
the fourteenth day of October and before the twenty-
third of November: Provided, That no tax lien for such
unredeemed tract or lot or undivided interest therein
shall be sold upon any bid or for any sum less than the
total amount of taxes, interest and charges then due:
Provided, however, That at any such sale, the tax lien
for each unredeemed tract or lot, or undivided interest
therein, shall be offered for sale and sold for the entirety
of such tract or lot or undivided interest therein as the
same is described and constituted as a unit or entity in
the list and notice prescribed in section two of this
article. If the sale shall not be completed on the day
designated in the notice for the holding of such sale, it
shall be continued from day to day between the same
hours until disposition shall have been made of all the
land.

§11A-3-6. Co-owner free to purchase at tax sale; pur-
chase by sheriff and clerk of county commis-
sion prohibited.

(a) Any co-owner, except a coparcener, in the absence
of satisfactory proof of a fiduciary relationship, shall be
entitled to acquire by tax purchase for his own account
the tax lien on the interest of any, or all, of his co-owners
in any real estate, and to receive a tax deed conveying
such interest without being required to hold such tax
lien or interest or interests under any constructive trust.
There shall be a prima facie presumption against the
existence of any such constructive trust.

(b) No sheriff, clerk of the county commission, nor
deputy of either, shall directly or indirectly become the
purchaser, or be interested in the purchase, of any tax
lien on any real estate at the tax sale or receive any tax
deed conveying such real estate. Any such officer so
purchasing shall forfeit one thousand dollars for each
offense. The sale of any tax lien on any real estate, or
the conveyance of such real estate by tax deed, to one
of the officers named in this section shall be voidable,
at the instance of any person having the right to redeem,
until such real estate reaches the hands of a bona fide
purchaser.

§11A-3-7. Suspension from sale; amended delinquent
lists; subsequent sale.

Whenever it shall appear to the sheriff that any real
estate included in the list has been previously conveyed
by deed pursuant to section twenty-seven of this article
for taxes, or that the tax lien thereon has been sold
previously and not redeemed, or that the tax lien
thereon ought not to be sold for the amount stated
therein, he shall suspend the sale thereof and report his reasons therefor to the county commission. If the commission finds that the tax lien on the real estate ought not to be sold, it shall so order; but if the commission finds that the tax lien on the real estate ought to be sold for the amount stated, or for a greater or less amount, it shall order the sheriff to include such real estate in his next September list, unless sooner redeemed.

In the event the list and notice of sale prescribed in section two of this article, shall not be published, posted and completed in the manner provided by said section two, so that it is impossible for that reason, or by reason of omission of any necessary procedural act, for the sheriff to make sale of the tax lien for the real estate embraced in said list pursuant to the provisions of this chapter, then and in that event the sheriff shall certify to the auditor, on or before the second day of December following the month in which such sale should have been held, an amended list or lists of such taxes which then remain delinquent. The sheriff shall include the real estate in the last-mentioned amended list or lists in his next September list, unless sooner redeemed.

§11A-3-8. Purchase by county.

If no person present bids the amount of taxes, interest and charges due on any real estate offered for sale, the sheriff shall purchase the tax lien on behalf of the county for the amount so due. No taxes levied against any lands for which a county has purchased a tax lien pursuant to the provisions of this section shall be payable until the same have been derived by the county from the sale of a tax lien on such lands or from the redemption of such lands.

§11A-3-9. Sheriff's list of sales, suspensions and redemptions; oath.

As soon as the sale provided for in section five of this article has been completed, the sheriff shall prepare a list of all tax liens on delinquent real estate purchased at the sale, or suspended from sale, or redeemed before sale. The heading of the list shall be in form or effect
as follows:

List of sales of tax liens on real estate in the county
of ____________, returned delinquent for nonpayment of taxes thereon for the year (or years) 19 ____,
and sold in the month (or months) of ____________,
19 ____, or suspended from sale, or redeemed before sale.

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

I, ________________, sheriff (or deputy sheriff or collector) of the county of ____________, do swear that the above list contains a true account of all the tax liens on real estate within my county returned delinquent for nonpayment of taxes thereon for the year (or years) 19 ____, which were sold by me or which were suspended from sale or redeemed before sale, and that I am not now, nor have I at any time been, directly or indirectly interested in the purchase of any such tax liens.

Except for the heading and the oath, the tax commissioner shall prescribe the form of the list.

§11A-3-10. Sheriff to account for proceeds; disposition of surplus.

(a) The sheriff shall account for the proceeds of all sales and redemptions included in such list in the same way he accounts for other taxes collected by him, except that if the purchase money paid for any property sold is in excess of the amount of taxes, interest and charges due thereon, the surplus shall be deposited in a special county fund to be known and designated as the “sale of tax lien surplus fund,” and disposed of as follows:

(1) In any case where the property was redeemed, such surplus shall be distributed to the person or persons who redeemed such property, or the heirs, devisees, legatees, executors, administrators, successors or assigns thereof, if a proper claim therefor is filed with the sheriff within two years from and after the date
of the sale; or

(2) If a claim as specified in subdivision (1) hereof is not timely filed, or if there was no redemption, such surplus shall be distributed to the person or persons who owned the property at the time of the sale, or the heirs, devisees, legatees, executors, administrators, successors or assigns thereof, if a proper claim thereof is filed with the sheriff within three years from and after the date of the sale; or

(3) If there be no proper claim filed under either subdivision (1) or (2) hereof within the time limits aforesaid, all claims to such surplus shall be barred and such surplus shall be distributed by the sheriff in the manner provided by law for the distribution of property taxes collected by him.

(b) All real estate included in the first delinquent list sent to the auditor, and not accounted for in the list of sales, suspensions and redemptions, shall be deemed to have been redeemed before sale, and the taxes, interest and charges due thereon shall be accounted for by the sheriff as if they had been received by him before the sale.

§11A-3-11. Return of list of sales, suspensions and redemptions.

(a) Within one month after completion of the sale, the sheriff shall deliver the original list of sales, suspensions and redemptions, with a copy thereof, to the clerk of the county commission. The clerk shall bind the original of such list in a permanent book to be kept for the purpose in his office, and shall note each sale and suspension, and each redemption not previously noted, on his record of delinquent lands. The clerk, within ten days after delivery of the list to him, shall transmit the copy to the auditor, who shall note each sale, suspension and redemption on the record of delinquent lands kept in his office.

(b) Any sheriff who fails to prepare and return the list of sales, suspensions and redemptions within the time required by this section shall forfeit not less than fifty
nor more than five hundred dollars, for the benefit of
the general school fund, to be recovered by the auditor
or by any taxpayer of the county on motion in a court
of competent jurisdiction. Upon the petition of any
person interested, the sheriff may be compelled by
mandamus to make out and return such list, and the
proceedings thereon shall be at his cost.

§11A-3-12. Amendment of such list.

If the sheriff shall make any error or omission in the
list of sales, suspensions and redemptions returned to
the clerk of the county commission, he or any person
interested may, within six months after the sale, apply
by petition to the county commission for an order
permitting or requiring amendment of the list. Any
person who might be prejudiced by the proposed
amendment must, if found within the county, be given
at least ten days' notice of such application. Upon proof
of the error or mistake the court shall make an order
permitting or requiring the sheriff to file an amended
list with the clerk of the commission. The sheriff shall
thereupon prepare and deliver to the clerk of the
commission the amended list and a copy thereof, with
a copy of the order of the commission permitting or
requiring it to be filed attached to the list and to the
copy. The clerk shall substitute the original of the
amended list for the list already in his office, and make
the necessary corrections on his record of delinquent
lands. The clerk shall transmit the copy of the amended
list to the auditor who shall note the corrections on his
record of delinquent lands.

§11A-3-13. Publication by sheriff of sales list.

Within one month after completion of the sale, the
sheriff shall prepare and publish a list of all the sales
made by him, in form or effect as follows, which list
shall be published as a Class II-O legal advertisement
in compliance with the provisions of article three,
chapter fifty-nine of this code, and the publication area
for such publication shall be the county.

List of tax liens on real estate sold in the county of
___________, in the month (or months) of
for nonpayment of taxes thereon for the year (or years) 19 ——, and purchased by individuals or by the County of ____________, West Virginia:

| Name of Local Quality person descrip- of land | Whole charged tion | Quantity for which Name amount with of land tax lien of paid by taxes lands charged is sold purchaser purchaser |

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

Given under my hand this ____________ day of ____________, 19——.

To cover the costs of preparing and publishing such list, a charge of ten dollars shall be added to the taxes, interest and charges already due on each item listed.

§11A-3-14. Title to tax lien acquired by county.

Upon such purchase on behalf of the county, title to the tax lien on the real estate sold shall without any certificate of sale be vested in the county, subject, however, to the right of redemption provided by this chapter.

§11A-3-15. Purchase by individual at tax sale; certificate of sale.

(a) If any person, being the highest bidder present at the sale provided for in section five of this article, bids and pays at least the amount of taxes, interest and charges for which any real estate is offered for sale, the sheriff shall issue to him a certificate of sale for the purchase money. The heading of the certificate shall be:

Memorandum of tax lien on real estate sold in the county of ________________ on this ____________ day of ________________, 19——, for the nonpayment of taxes charged thereon for the year (or years) 19——.

Except for the heading, the tax commissioner shall prescribe the form of the receipt.
(b) The certificate of sale shall describe the property on which the tax lien was sold, the total amount of all taxes, interest, penalties and costs paid for each lot or tract, and the rate of interest to which the purchaser shall be entitled upon redemption. The certificate shall also set forth columns for subsequent taxes and costs. For each certificate so delivered, the purchaser shall pay a fee of ten dollars, and such amount shall be included in the costs described therein.


The certificate of sale shall be assignable by endorsement, and an assignment thereof, when entered upon the delinquent lands book of the clerk of the county commission and in the sheriff's records, shall vest in the assignee or his legal representative all the right and title of the original purchaser. Both the clerk and the sheriff shall be entitled to a fee of two dollars for the entry thereof.

§11A-3-17. Subsequent tax payments by purchaser.

Any person desiring to pay any subsequent taxes on lands for which he holds the certificates of sale shall produce such certificates to the sheriff, who shall endorse the amount of such subsequent taxes and the date of payment thereof in his records upon the payment to the sheriff of a fee therefor in the amount of two dollars. He shall also present such certificate to the clerk of the county commission, who shall enter the amount of such tax in his record of delinquent lands upon the payment to the clerk of a fee therefor in the amount of two dollars.


Whenever any tax lien for any real estate has been sold at a tax sale to an individual purchaser, and the tax on such real estate for the year of the sale or for any subsequent year have become delinquent, the sheriff shall include the real estate in the delinquent lists of the proper year and shall sell any subsequent tax liens therefor on the whole or a part thereof for taxes as if the former sale had not occurred. The purchaser at the
first sale may, however, prevent the second sale by paying the amount due, or he may redeem from the second sale. If the purchaser bought only a part of the land at the first sale, he may prevent a second sale thereof by paying the proportionate part of the taxes assessed against the whole which are chargeable to the part purchased.

§11A-3-19. Transfer of certificate of sale by sheriff; counties entitled to tax deeds.

(a) Whenever any tax lien on any lot or tract of land or interest therein is purchased by or for the county at any tax sale, and a certificate of sale is made to such county therefor, the sheriff of such county may sell, assign, and deliver any such certificate to any person who desires to purchase the same upon payment to the sheriff of the amount for which said tax lien was bid in by the county with interest and costs accrued thereon from the date of sale, together with a fee for making such assignment in the amount of ten dollars, or, for such sum as the county commission may decide and authorize by order duly entered in the recorded proceedings of such commission.

(b) Whenever any tax lien on any lot or tract of land or interest therein thereon is purchased by or for a county, such county shall be entitled to apply for and receive a tax deed in like manner as is provided for individual purchasers at tax sales.

§11A-3-20. Transfer of certificate of sale by counties.

Any county in this state having in its possession or under its control a certificate of sale resulting from the sale of a tax lien on land for the nonpayment of taxes may assign, sell or transfer such certificate in such manner, at such times, and on such terms as may be determined by order of the county commission. Thereafter, the county shall execute and deliver such instruments as may be necessary to fully convey all of the right, title and interest of the county in or to such certificates.

§11A-3-20a. Required public sale of tax liens by counties.
No sale, assignment or transfer of a certificate of sale as permitted by sections nineteen and twenty of this article shall occur unless the sale is advertised and conducted in compliance with the provisions of this subsection. A notice of such sale shall be posted in a public place in the county courthouse at least thirty days before the date of sale, which notice shall be published during such thirty day period as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county.

Such notice shall reserve the right upon part of the county commission to reject any or all bids which are less than the amount for which said tax lien was bid in by the county with interest and costs accrued thereon from the date of sale, together with a fee for advertising the sale described in this section in the amount of ten dollars. Said notice shall be substantially in the following form:

"NOTICE

Public notice is hereby given that the certificate of sale for the tax lien on the following real property acquired by the County of ____________, West Virginia, to wit:

(description of property)

will, according to law, be offered at public sale at the county courthouse, ____________, West Virginia, on the __________ day of __________, 19 ____, at the hour of _________ to the highest and best bidder. The county commission of said county reserves the right to reject any or all bids which are less than the amount for which said tax lien was bid in by the county at the prior sheriff's tax sale on (date) __________ with interest and costs accrued thereon from the date of said sheriff's sale

County Clerk."

§11A-3-21. Limitations on tax certificates.
(a) No lien upon real property conveyed by a tax certificate of sale issued by a sheriff on account of any delinquent property taxes shall remain a lien thereon for a period longer than fifteen years after the original issuance thereof, except as provided in subsection (c) of this section. This section shall not apply to any certificate of sale issued to and held by the county; except that, in the event of an assignment of such tax certificate of sale so issued to and held by such county, the lien of such tax certificate or certificate of purchase shall cease fifteen years after the date of its issuance subject only to the provisions of subsection (c) of this section.

(b) No tax deed shall issue on any tax sale evidenced by tax certificate sale where such tax certificate or certificate of purchase has ceased to be a lien pursuant to the provisions of this section and application for such tax deed is not pending at the time of the expiration of the limitation period provided for in this section.

(c) In the event of an assignment of a tax certificate of sale held by a county where such certificate is fifteen years old at the time of assignment or will become fifteen years old within one year from the date of such assignment, the assignee thereof shall be entitled to a tax deed in the manner provided by law if such assignee or other legal holder of such certificate institutes proceedings to procure a tax deed by making a demand upon the clerk for same, as provided by law, within one year from the date of such assignment by the county.

(d) Whenever a lien conveyed by a tax certificate of sale has expired by reason of the provisions of this section, the sheriff shall immediately issue a certificate of cancellation describing the real estate included in the certificate of purchase or tax certificate and giving the date of cancellation; and he shall also make proper entries in his records. He shall also present every such certificate of cancellation to the county clerk who shall enter the same in his records and file the same, and such certificate and the record thereof shall be prima facie evidence of the cancellation of the certificate of sale and of the release of the lien of such certificate on the lands therein described. Failure to record such certificate of
cancellation shall not extend the lien conveyed by the certificate of sale. The sheriff and county clerk shall not be entitled to any fees for the issuing of such certificate of cancellation nor for the entries in their books made under the provisions of this subsection.


If any tax lien on a lot or tract of real estate was purchased at a tax sale described in section five of this article which has not been redeemed and which has not been sold or assigned by the county for three consecutive years from said sale, then such tax lien and any subsequent tax liens which may attach to said property for delinquency may be sold or assigned without any additional listing, advertising or notice otherwise required by the provisions of this article requiring the same prior to the public auction of such tax liens thereon.

§11A-3-23. What purchaser must do before he can secure deed.

(a) At any time after October thirty-first of the year following the sale, and on or before December thirty-first of the same year, the purchaser, his heirs or assigns, in order to secure a deed for the real estate purchased, shall: (1) examine the title in order to prepare a list of those to be served with notice to redeem and request the clerk to prepare and serve the notice as provided in sections twenty-five and twenty-six of this article; (2) deposit, or offer to deposit, with the clerk a sum sufficient to cover the costs of preparing and serving the notice; and (3) present the purchaser's certificate of sale, or order of the county commission where the certificate has been lost or wrongfully withheld from the owner, to the clerk of the county commission. For failure to meet these requirements, the purchaser shall lose all the benefits of his purchase.

(b) If the person requesting preparation and service of the notice is an assignee of the purchaser, he shall, at the time of the request, file with the clerk a written assignment to him of the purchaser's rights, executed, acknowledged and certified in the manner required to
(c) Whenever any certificate given by the sheriff for a tax lien on any land, or interest therein, sold for delinquent taxes is lost or wrongfully withheld from the rightful owner thereof and such land or interest has not been redeemed, the county commission may receive evidence of such loss or wrongful detention and, upon satisfactory proof of such fact, may cause a certificate of such proof and finding, properly attested by the county clerk under the seal of the county, to be delivered to such rightful claimant, and a record thereof shall be duly made by the county clerk in the recorded proceedings of the commission.

§11A-3-24. Refund to purchaser of payment made at sheriff's sale where property is subject of an erroneous assessment or is otherwise nonexistent.

If, after payment of the amount bid at a sheriff's sale and upon the examination of title, as required by section twenty-three of this article, the purchaser discovers that the property purchased at such sale is the subject of an erroneous assessment or is otherwise nonexistent, such purchaser shall submit the certificate of an attorney at law that the property is the subject of an erroneous assessment or is otherwise nonexistent, whereupon the sheriff shall cause the moneys so paid to be refunded. Upon refund, the sheriff shall inform the assessor of the erroneous assessment for the purpose of having the assessor correct said error.

§11A-3-25. Notice to redeem.

Whenever the provisions of section twenty-three of this article have been complied with, the clerk of the county commission shall thereupon prepare a notice in form or effect as follows:

To _______________________

You will take notice that ____________, the purchaser (or ____________, the assignee, heir or devisee of ____________, the purchaser) of the tax lien(s) on the following real estate, ____________,
(here describe the real estate for which the tax lien(s) thereon were sold) located in ____________, (here name the city, town or village in which the real estate is situated or, if not within a city, town or village, give the district and a general description) which was returned delinquent in the name of ____________, and for which the tax lien(s) thereon was sold by the sheriff of ____________ County at the sale for delinquent taxes made on the ____________ day of ____________, 19 ____, has requested that you be notified that a deed for such real estate will be made to him on or after the first day of April, 19 ____, as provided by law, unless before that day you redeem such real estate. The amount you will have to pay to redeem on the last day, March thirty-first, will be as follows:

Amount paid sheriff at sale, with interest
   to March 31st ............................................... $_______

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

Amount paid for title examination .............. $_______

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

Amount paid for other statutory costs
   (describe) .................................................... $_______

Total .............................................................. $_______

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

Given under my hand this ____________ day of
   ____________, 19 ____.

   ________________
   Clerk of the County Commission
   of ____________ County,
   State of West Virginia

The clerk for his service in preparing the notice shall receive a fee of ten dollars for the original and two
dollars for each copy required. Any costs which must be
expended in addition thereto for publication, or service
of such notice in the manner provided for serving
process commencing a civil action, or for service of
process by certified mail, shall be charged by the clerk.
All costs provided by this section shall be included as
redemption costs and included in the notice described
herein.

§11A-3-26. Service of notice.

As soon as the clerk has prepared the notice provided
for in section twenty-five of this article, he shall cause
it to be served upon all persons named on the list
generated by the purchaser pursuant to the provisions
of section twenty-three of this article.

The notice shall be served upon all such persons
residing or found in the state in the manner provided
for serving process commencing a civil action, or by
certified mail, return receipt requested. The notice shall
be served on or before the tenth day following the
request for such notice.

If any person entitled to notice is a nonresident of this
state, whose address is known to the purchaser, he shall
be served at such address by certified mail, return
receipt requested.

If the address of any person entitled to notice, whether
a resident or nonresident of this state, is unknown to the
purchaser and cannot be discovered by due diligence on
the part of the purchaser, the notice shall be served by
publication as a Class III-O legal advertisement in
compliance with the provisions of article three, chapter
fifty-nine of this Code, and the publication area for such
publication shall be the county in which such real estate
is located. If service by publication is necessary,
publication shall be commenced when personal service
is required as set forth above, and a copy of the notice
shall at the same time be sent by certified mail, return
receipt requested, to the last known address of the
person to be served. The return of service of such notice,
and the affidavit of publication, if any, shall be in the
manner provided for process generally and shall be filed
§11A-3-27. Deed to purchaser; record.

If the real estate described in the notice is not redeemed within the time specified therein, the person entitled thereto shall make and deliver to the clerk of the county commission at any time thereafter a deed for such real estate in form or effect as follows:

This deed made this __________ day of __________, 19 ____, by and between __________, clerk of the county commission of __________ County, West Virginia, (or by and between __________, a commissioner appointed by the Circuit Court of __________ County, West Virginia, grantor, and __________, purchaser, (or __________, heir, devisee or assignee of __________, purchaser,) grantee, witnesseth, that

Whereas, In pursuance of the statutes in such case made and provided, __________, Sheriff of __________ County, (or __________, deputy for __________, Sheriff of __________ County,) (or __________, collector of __________ County,) did, in the month of __________, in the year 19 ____, sell the tax lien(s) on real estate, hereinafter mentioned and described, for the taxes delinquent thereon for the year (or years) 19 ____, and __________, (here insert name of purchaser) for the sum of $____________, that being the amount of purchase money paid to the sheriff, did become the purchaser of such real estate (or of __________ acres, part of the tract or land, or of an undivided __________ interest in such real estate) which was returned delinquent in the name of __________ and

Whereas, The clerk of the county commission has caused the notice to redeem to be served on all persons required by law to be served therewith; and

Whereas, The tax lien(s) on the real estate so purchased has not been redeemed in the manner provided
by law and the time for redemption set in such notice has expired;

Now, therefore, the grantor, for and in consideration of the premises and in pursuance of the statute, doth grant unto ____________, grantee, his heirs and assigns forever, the real estate on which the tax lien(s) so purchased existed, situate in the county of ____________, bounded and described as follows:

Witness the following signature: ____________.

Clerk of the County Commission of ____________ County.

Except when ordered to do so, as provided in section twenty-eight of this article or section eight, article four of this chapter, no clerk of the county commission shall execute and deliver such a deed more than six months after the person entitled to the deed delivers the same and requests the execution thereof. Upon the clerk's determination that the deed presented substantially complies with the requirements of this section, the clerk shall execute the deed and acknowledge the same, record the deed in the clerk's office, and deliver the original thereof to the purchaser.

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

§11A-3-28. Compelling service of notice or execution of deed.

If the clerk of the county commission fails or refuses to prepare and serve the notice to redeem as required in sections twenty-five and twenty-six of this article, the
person requesting the notice may, at any time within
two weeks after such failure or refusal, apply by petition
to the circuit court of the county for an order compelling
the clerk to prepare and serve the notice or appointing
a commissioner to do so. If the person requesting the
notice fails to make such application within the time
allowed, he shall lose his right to the notice, but his
rights against the clerk under the provisions of section
thirty-eight of this article shall not be affected. Notice
given pursuant to an order of the court or judge shall
be as valid for all purposes as if given within the time
required by section twenty-six of this article.

If the clerk fails or refuses to execute the deed as
required in section twenty-seven of this article, the
person requesting the deed may, at any time after such
failure or refusal, but not more than six months after
his right to the deed accrued, apply by petition to the
circuit court of the county for an order compelling the
clerk to execute the deed or appointing a commissioner
to do so. If the person requesting the deed fails to make
such application within the time allowed, he shall lose
his right to the deed, but his rights against the clerk
under the provisions of section thirty-eight of this article
shall not be affected. Any deed executed pursuant to an
order of the court or judge shall have the same force and
effect as if executed and delivered by the clerk within
the time specified in the preceding section.

Ten days' written notice of every such application
must be given to the clerk. If, upon the hearing of such
application, the court or judge is of the opinion that the
applicant is not entitled to the notice or deed requested,
the petition shall be dismissed at his costs; but if the
court or judge is of the opinion that he is entitled to such
notice or deed, then, upon his deposit with the clerk of
the circuit court of a sum sufficient to cover the costs
of preparing and serving the notice, unless such a
deposit has already been made with the clerk of the
county commission, an order shall be made by the court
or judge directing the clerk to prepare and serve the
notice or execute the deed, or appointing a commissioner
for the purpose, as the court or judge shall determine.
If it appear to the court or judge that the failure or refusal of the clerk was without reasonable cause, judgment shall be given against him for the costs of the proceedings; otherwise the costs shall be paid by the applicant.

Any commissioner appointed under the provisions of this section shall be subject to the same liabilities as are provided for the clerk. For the preparation of the notice to redeem, he shall be entitled to the same fee as is provided for the clerk. For the execution of the deed, he shall also be entitled to a fee of ten dollars, to be paid by the grantee upon delivery of the deed.

§11A-3-29. One deed for separate purchases.

Whenever one purchaser at the tax sale has purchased tax liens on two or more pieces of real estate, or undivided interests therein, charged to the same person, or persons, with taxes for the same year, or years, he, his heirs or assigns, may request the clerk of the county commission to execute a separate deed for each piece of real estate, or undivided interest therein, or separate deeds for some and one deed for the remainder, or one deed for all, as he or they may prefer. Every deed for two or more pieces of real estate, or undivided interests therein, shall describe each piece of real estate and each undivided interest separately.

§11A-3-30. Title acquired by individual purchaser; action to quiet title.

(a) Whenever the purchaser of any tax lien on any real estate sold at a tax sale, his heirs or assigns, shall have obtained a deed for such real estate from the clerk of the county commission or from a commissioner appointed to make the deed, he or they shall thereby acquire all such right, title and interest, in and to the real estate, as was, at the time of the execution and delivery of the deed, vested in or held by any person who was entitled to redeem, unless such person is one who, being required by law to have his interest separately assessed and taxed, has done so and has paid all the taxes due thereon, or unless the rights of such person are expressly saved by the provisions of section six of
this article or sections two, three, four or nine, article four of this chapter. The tax deed shall be conclusive evidence of the acquisition of such title. The title so acquired shall relate back to July first of the year in which the taxes, for nonpayment of which the tax lien on the real estate was sold, were assessed.

(b) Any individual purchaser to whom a tax deed has been issued may institute and prosecute actions to quiet title in any such real estate conveyed thereby. Such action may be maintained for all or any one or more of the lots or tracts conveyed.

§11A-3-31. Effect of irregularity on title acquired by purchaser.

No irregularity, error or mistake in respect to any step in the procedure leading up to and including delivery of the tax deed shall invalidate the title acquired by the purchaser unless such irregularity, error or mistake is, by the provisions of section six of this article or section two, three or four, article four of this chapter, expressly made ground for instituting a suit to set aside the sale or the deed.

This and the preceding section are enacted in furtherance of the purpose and policy set forth in section one of this article.

§11A-3-32. Disposition of certificates held by counties.

(a) In all cases where a tax lien on real estate has been purchased by or on behalf of the county at tax sales and the county has held the certificate of sale for three years or more, the county commission may apply for and receive a tax deed in like manner as is provided by law in the case of delinquent tax sale certificates held by individuals. The county commission, whenever the county becomes entitled to a tax deed, may cause its clerk to issue, serve, and publish notices, pursuant to law, of application for such tax deed in like manner as in the case of individual certificate holders.

(b) In cases where the county has held the tax certificate for five years or more and such real estate is not located within the limits of any incorporated town
or city within the said county, the clerk may, at the 
request of the county commission, include in one tax 
deed therefor any or all separate parcels of real estate 
for which it holds tax sale certificates for sales in any 
one year.

(c) Upon making application in the case of tax 
certificates held by the counties for five years or more, 
the clerk shall not be required to give the notice that 
a request or demand for tax deed has been made upon 
him provided for in section twenty-five of this article. 
The clerk, in lieu of such notice, at least sixty days 
before the day said tax deed issues, shall give notice by 
registered or certified mail, addressed to the last known 
residence of the person in whose name the real estate 
is assessed for the years during which said taxes have 
not been paid, that a tax deed has been applied for on 
the particular described property and that said tax deed 
will issue on a day certain. The clerk shall also post in 
a public place in the county courthouse, at least sixty 
days before said deed issues, a notice stating that a deed 
will be issued to the county on the real estate described 
in said notice. Said notice shall contain the name of the 
person to whom the property is assessed together with 
the date said tax deed will issue.

(d) In all cases, the owner of the property shall have 
the right of redemption of the property as provided by 
law.

(e) Any tax deed, when issued to the county, shall be 
duly recorded, but no fee shall be required to be paid 
therefor. Thereafter, the county commissioner shall list 
such property for sale and post such list in the county 
courthouse and, out of the county general fund, may 
make such essential repairs thereon and pay such 
premiums for fire insurance as are necessary for the 
protection and preservation of any improvements on 
such property. The county commission, after a county 
has acquired such tax deed, in its discretion, may 
institute and prosecute suits to quiet the title in any such 
real estate so acquired under such tax deed.

(f)(1) In all cases where a tax lien on real property has
been purchased by or on behalf of the county at a tax
sale and the county has held the certificate of sale for
thirty years or more without obtaining a tax deed as
provided in this section, then such certificate may be
declared void and of no effect.

(2) It is the duty of the clerk of the county commission
at least once each year to prepare and present, at any
regular or special meeting of the county commission, a
list of all tax liens on all real property purchased by or
on behalf of the county and all certificates of sale
relating thereto, which certificates have been held by
the county for thirty years or more without obtaining
a deed or being otherwise disposed of under this article.

(3) Upon being presented with such list, the county
commission shall determine that the tax liens were
purchased by or on behalf of the county, that such
certificates of sale relating thereto have been held by the
county for thirty years or more, and that no tax deed
has been obtained or applied for as provided in this
section. Upon making such determination, the county
commission may declare that such certificates are void,
and an order to that effect shall be duly entered in the
recorded proceedings of the board, which order shall
direct the clerk and the sheriff to cancel such certifi-
cates of sale.

(4) Upon receipt of an order of the county commission
declaring that any certificates of sale are void, the clerk
and the sheriff shall record said order in his records and
shall cancel all such certificates specified in said order.

(5) Any civil action concerning a determination and
declaration by a county commission made pursuant to
this subsection (f) shall be commenced within one year
after the date of the commission's order, or said action
shall be forever barred.

§11A-3-33. Appraisal - County may rent or sell.

(a) Whenever such real estate is conveyed by the clerk
to the county by tax deed pursuant to the provisions of
this article, the county commission shall have the power
to rent, lease, sell, or otherwise convey such property so
acquired as provided in this section.

(b) Whenever such real estate is leased by the county commission of such county, it shall be leased for the best cash rental obtained, considering the condition and location of such real estate, in the discretion of the county commission; but no lease shall be for a period exceeding five years.

(c)(1) Any such real estate so conveyed to the county may be sold at public sale by the county commission: Provided, That no such real estate may be sold unless the sale is advertised and conducted in compliance with the provisions of this subsection. Prior to offering such property for sale, the county commission shall obtain from the assessor a certificate as to the current actual value and valuation for assessment of the same, which shall be provided by the assessor. A notice of such sale shall be posted in a public place in the county courthouse at least thirty days before the date of sale, which notice shall be published during such thirty day period as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county.

Such notice shall reserve the right upon the part of the county commission to reject any or all bids which are less than the value determined by the assessor. Said notice shall be substantially in the following form:

"NOTICE

Public notice is hereby given that the following real property acquired by the County of __________, West Virginia, by tax deed, to wit:

(description of property)

will, according to law, be offered at public sale at the county courthouse, __________, West Virginia, on the __________ day of __________, 19 ____, at the hour of __________ to the highest and best bidder. The county commission of said county reserves the right to reject any or all bids which are less than the current actual value fixed by the county assessor."
(2) Such real estate may be sold at public sale when and if the county commission receives a bid for any lots or parcels which in the discretion of the county commission is a sufficient purchase price. Such real estate may be sold in such lots or parcels and upon such terms of payment as the county commission deems acceptable, but no deed shall be issued until the purchaser has made payment in full. Upon written application of any person, the county commission shall, except as otherwise provided herein, offer for sale the property requested by such person to be sold. No parcel shall be divided for the purpose of sale unless the county commission specifically permits such division. The county commission, in its discretion, may decline and refuse to offer for sale any lots or parcels as it may determine to be useful or necessary for present or future public projects. The county commission may, prior to the sale of any lot or parcel, reserve or grant streets, alleys, or roads or utilities or other easements, public or private, under such terms and conditions as it may deem advisable and may rent or lease any lot or parcel retained for present or future public projects to any person, political subdivision, or municipality.

(d) A private, nonprofit, charitable corporation, incorporated in this state, which has been certified as a nonprofit corporation pursuant to the provisions of §501(c)(3) of the federal Internal Revenue Code, as amended, which has as its principal purpose the construction of housing or other public facilities, and which notifies the county commission of an intention to bid and subsequently submits a bid that is not more than five percent lower than the highest bid submitted by any person or organization which is not a private, nonprofit, charitable corporation, incorporated in this state, which has been certified as a nonprofit corporation pursuant to the provisions of §501(c)(3) of the federal Internal Revenue Code, as amended, and which has as its principal purpose the construction of housing
or other public facilities, shall be sold the property
offered for sale by the county commission pursuant to
the provisions of this section at the public auction as
opposed to the highest bidder.

The nonprofit corporation referred to in this section
does not include a business organized for profit, a labor
union, a partisan political organization or an organiza-
tion engaged in religious activities and it does not
include any other group which does not have as its
principal purpose the construction of housing or public
facilities.

(e) Any such deed shall be executed by no less than
a majority of the county commission, but such deed shall
be issued without covenants of warranty.

(f) The proceeds of the sale, after payment of all
expenses thereof, shall be deposited in the general fund
of the county.

§11A-3-34. Sheriff to keep proceeds in separate accounts;
disposition.

The sheriff shall keep in a separate fund the proceeds
of all redemptions and sales paid to him under the
provisions of this chapter. Out of the total proceeds of
each suit he shall in the order of priority stated below
credit the following amounts, for payment as hereinafter
provided: (1) To the general county fund, such part as
represents costs paid out of such fund for publishing the
sheriff's delinquent and sales list and all other costs
incurred by the sheriff pursuant to the provisions of this
article; (2) surplus proceeds from the sale of tax liens
on delinquent lands shall be held by the sheriff for the
periods provided for in section ten of this article, and
if no application is made within the time therein
specified, such surplus shall be distributed by the sheriff
in the manner provided by law for the distribution of
property taxes collected by him; and (3) the balance, if
any, of the proceeds of the lands included in each suit
shall be prorated among the various taxing units on the
basis of the total amount of taxes due them in respect
to the lands that were sold or redeemed. The amounts
so determined shall be credited as follows, for payment
as hereinafter provided: (1) To the auditor, such part as
represents state taxes and interest; and (2) to the fund
kept by the sheriff for each local taxing unit, such part
as represents taxes and interest payable to such unit.

All amounts which under the provisions of this section
were so credited by the sheriff to the auditor shall be
paid to him semiannually; and those credited to the
various local taxing units shall be transferred semiannually by the sheriff to the fund kept by him for each
such taxing unit.

The tax commissioner, in cooperation with the land
department in the auditor's office, shall prescribe the
form of the records to be kept by the sheriff for the
purposes of this section, and the method to be used by
him in making the necessary pro rata distributions.

§11A-3-35. Disposition of lands heretofore purchased by
or forfeited to state; waste and unappropriated lands; confirmation of prior conveyances.

(a) (1) The auditor shall report to the assessor of the
county in which the lands are situated for reentry on the
land books:

(A) All lands which have been heretofore purchased
by the state at a tax sale pursuant to the provisions of
any prior enactment of article three of this chapter and
which have not been redeemed from the auditor or
certified to the circuit court for sale as provided in any
prior enactment of this chapter; and

(B) All lands which have heretofore been forfeited to
the state pursuant to the provisions of any prior
enactment of this chapter, and which have not been
certified to the circuit court for sale pursuant to such
article; and

(C) All lands which have heretofore been certified to
the circuit court for sale by the deputy commissioner
pursuant to the provisions of any prior enactment of this
chapter; and

(D) All lands subject to sale under any court order
entered in any action for the sale thereof pursuant to the
provisions of any prior enactment of this chapter which
have not yet been sold pursuant to such order; and

(E) All lands which have heretofore been determined
to be waste and unappropriated lands pursuant to the
provisions of any prior enactment of this code.

(2) Prior to reporting such lands to the assessor, the
auditor shall cause an examination of the title of each
parcel, tract or lot of land described in subparagraphs
(A), (B), (C), (D) and (E) of subdivision one of this
subsection to determine, as to each parcel, tract or lot
of such land, whether the same is subject to assessment
or taxation pursuant to any provision of this code. Each
examination of title shall be certified by an attorney at
law admitted to practice before the supreme court of
appeals of this state. The auditor shall attach an
authenticated copy of such certificate of title for each
land so examined to the report required by this section.
The auditor shall set forth in the report to each assessor
the auditor's determination, for each parcel, tract or lot
of land or portion thereof described therein, as to
whether the same is subject to assessment or taxation.
Such lands that the auditor determines to be subject to
assessment or taxation as disclosed by the report shall
be reentered on the land books in the name of the person
charged with taxes on the land at the time of purchase
by the state, and charged with all unpaid taxes thereon,
including those taxes which have accrued since such
purchase by the state, and all costs charged to such
lands arising from the tax sale and purchase by the
state. Lands heretofore determined to be waste and
unappropriated lands which are determined by the
auditor to be subject to assessment or taxation as
disclosed by the report shall be entered on the land
books as the property of person or persons unknown and
assessed and levied upon as are other lands. All such
lands entered on the land books which are determined
by the auditor to be subject to assessment or taxation
as disclosed by the report shall then be subject to
disposition pursuant to this article. Each parcel, tract
or lot or portion thereof of land which the auditor
determines as set forth in the report is not subject to
assessment or taxation shall not be reentered on the land books by the assessor nor shall the assessor be required to make any inquiry into the accuracy of the auditor's determination that the land or portion thereof is not subject to assessment or taxation: Provided, That where the assessor otherwise discovers that such land is subject to assessment or taxation, the assessor shall enter such land on the land books.

(b) All actions heretofore instituted by the deputy commissioners pursuant to the provisions of any prior enactment of article four of this chapter, which have not been reduced to judgment for the sale of all lands listed in such suits, are hereby dismissed, and the lands listed in such suits shall be reported by the auditor to the assessor of the county in which the lands are situated for reentry on the land books. Such lands shall be reentered on the land books in the name of the person charged with taxes on the land at the time of purchase by the state, and charged with all unpaid taxes thereon, including those taxes which have accrued since such purchase by the state, and all costs charged to such lands arising from the tax sale and purchase by the state. Such lands shall then be subject to disposition pursuant to this article.

(c) Any circuit court in which an action described in this section is pending shall make all necessary orders for such discontinuance and dismissal.

(d) The auditor shall report all lands required to be reported pursuant to the provisions of this section on or before the thirtieth day of June, one thousand nine hundred ninety-four.

(e) All sales of lands which resulted in subsequent conveyances of title thereto, and orders or decrees adjudicating title made in any circuit court actions which resulted in subsequent conveyances of title, which became final prior to the effective date of this enactment for the sale of lands for the benefit of the school fund are hereby confirmed. All sheriff sales of lands which resulted in subsequent conveyances of title thereto as the result of the delinquency in the payment of taxes
therefor which became final prior to the effective date of this enactment are hereby confirmed. Whatever right, title or interest the state or any person having the right to redeem the same had in any such lands shall be deemed to have vested in the purchaser, grantee or transferee thereof. Notwithstanding any irregularity, error or mistake in such action or in the tax enforcement proceedings prior thereto, such title shall not hereafter be subject to attack. This paragraph is enacted in furtherance of the purpose and policy set forth in section one, article three of this chapter.

§11A-3-36. Land record in auditor's office.

The auditor shall keep in his office the permanent record of all forfeited, delinquent, escheated, and waste and unappropriated lands prepared prior to the effective date of this enactment. The auditor shall prepare and keep in his office a permanent record of all delinquent and escheated lands. The record shall as to every tract or lot listed set forth the information available as to quantity, local description, and the name of the former owner and the respective dates of delinquency and sale of the tax lien thereon, or escheat, as the case may be. The record shall be prima facie evidence of all matters required by this section to be set forth therein, including the correctness of the description of lands as delinquent or escheated.

§11A-3-37. Disposition of escheated lands.

The auditor shall report all escheated lands to the county commission of the county in which such lands are situated. Thereafter, the lands shall be sold. The sale shall be conducted in a manner which substantially conforms with the provisions for the sale of lands set forth in subsection (c), section thirty-three of this article: Provided, That no county commission may refuse to offer any escheated land for sale, nor shall any county upon sale convey less title thereto than that which escheated. The sale shall be conducted within ninety days after the same has been reported by the auditor to the assessor, and if there be no purchase at such sale, the land shall be offered for private sale thereafter until
§11A-3-38. Right of creditor of former owner of escheated land; disposition of sale proceeds.

Any surplus proceeds arising from the sale of escheated land, after the payment of all expenses of the sale thereof, may be applied for by the creditors of the decedent if application is made to the county commission that sold the land within one year after the date of confirmation of said sale. Upon proper application to the commission within such time, such surplus may be applied to the satisfaction of the claims of creditors of the decedent who had a lien on the land at the time of his death, or who, being general creditors, have properly proved their claims against his estate and have been unable to obtain payment out of the personality. In the disposition of such surplus, due preference shall be given to lien creditors. Any part of such surplus thereafter remaining shall be paid by the sheriff to the auditor for credit to the general school fund.


It is the duty of the owner of land to have his land entered for taxation on the land books of the appropriate county, have himself charged with the taxes due thereon, and pay the same. Where any land is discovered which has not been entered on the land book, the same shall be entered thereon. The owner thereof shall be liable for all prior real estate taxes thereon, including interest, which would have been due and payable therefor, as determined by the assessor, had the land been entered on the land book: Provided, That the owner shall not be liable for more than the taxes and interest which would have become due and payable during the ten years immediately preceding the date the land was entered on the land book. Except for any taxes for the current year which would not otherwise be delinquent, all such prior taxes shall be delinquent upon discovery and disposition of the tax lien or liens therefor shall be the same as the disposition of tax liens on delinquent lands which had been entered on the land book under
§11A-3-40. Liability of officer failing to perform duty; penalty.

If any officer mentioned in this article shall fail or refuse to perform 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 dollars for each failure or refusal, unless a different penalty is imposed by the provisions of this article.

ARTICLE 4. REMEDIES AND REDEMPTIONS FROM SALE OF TAX LIENS.

§11A-4-1. Declaration of legislative purpose.

In furtherance of the policy declared in section one, article three of this chapter, it is the intent and purpose of the Legislature to provide reasonable opportunities for delinquent taxpayers to protect their interests in their lands and to provide reasonable remedies in certain circumstances for persons with interests in delinquent and escheated lands.

§11A-4-2. Right to set aside sale or deed when all taxes paid before sale.

Any owner of real estate for which a tax lien was sold for nonpayment of taxes pursuant to the provisions of article three of this chapter, when all taxes thereon had in fact been paid before the sale, his heirs and assigns, or the person who paid the taxes, may, before the expiration of three years following the sale, whether the sale was to an individual or to the county, institute a civil action to set aside the sale and to enjoin the proper official from taking any further steps in the procedure provided in this and the following article, or, if a deed has been delivered to the purchaser, before the expiration of three years following the delivery of the deed, institute a civil action to set aside the deed. If such action is instituted by or on behalf of the owner of an undivided interest which was included in a group
assessment but which was separately redeemed as
provided in section eighteen, article two of this chapter,
the sale or the deed shall be set aside only insofar as
it affects his interest.

§11A-4-3. Right to set aside deed improperly obtained.

Whenever the clerk of the county commission has
delivered a deed to the purchaser after the time
specified in section twenty-seven of article three of this
chapter, or, within that time, has delivered a deed to a
purchaser who was not entitled thereto either because
of his failure to meet the requirements of section twenty-
three of said article three, or because the property
conveyed had been redeemed, the owner of such
property, his heirs and assigns, or the person who
redeemed the property, may, before the expiration of
three years following the delivery of the deed, institute
a civil action to set aside the deed. No deed shall be set
aside under the provisions of this section, except in the
case of redemption, until payment has been made or
tendered to the purchaser, or his heirs or assigns, of the
amount which would have been required for redemp-
tion, together with any taxes which have been paid on
the property since delivery of the deed, with interest at
the rate of twelve percent per annum.

§11A-4-4. Right to set aside deed when one entitled to
notice not notified.

If any person entitled to be notified under the
provisions of section twenty-six of article three of this
chapter is not served with the notice as therein required,
and does not have actual knowledge that such notice has
been given to others in time to protect his interests by
redeeming the property, he, his heirs and assigns, may,
before the expiration of three years following the
delivery of the deed, institute a civil action to set aside
the deed. No deed shall be set aside under the provisions
of this section until payment has been made or tendered
to the purchaser, or his heirs or assigns, of the amount
which would have been required for redemption,
together with any taxes which have been paid on the
property since delivery of the deed, with interest at the
rate of twelve percent per annum.

§11A-4-5. On whose behalf suits instituted; decree when deed set aside.

Any civil action instituted under the provisions of sections two, three or four of this article by a person other than the former owner, his heirs or assigns, must be brought on his or their behalf. Whenever the deed in such case is set aside, the decree shall be that all the right, title and interest of the former owner, his heirs or assigns, is revested in him or them.

§11A-4-6. Redemption from purchase by individual; receipt; list of redemptions; lien.

After the sale of any tax lien on any real estate pursuant to article three of this chapter, the owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax lien thereon was purchased by an individual, may redeem at any time before a tax deed is issued therefor. 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 one percent per month 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 one percent per month from the date of payment. (3) Such additional expenses as may have been incurred in procuring the examination of the title in order to prepare the list of those to be served with notice and giving the notice required by sections twenty-five and twenty-six of article three of this chapter, with interest at the rate of one percent per month, but the amount he shall be required to pay for the expenses incurred for the title examination and the preparation of the list of those to be served with notice to redeem, required by section twenty-three of this article, shall not exceed one hundred dollars from the date the same was paid.

The person redeeming shall be given duplicate receipts for the payment. If the purchaser, his heirs or assigns, shall refuse or fail to sign and give such receipts when lawfully required to do so, he or they shall pay
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29 to the person redeeming twice the amount of such
30 payment, which may be recovered by action on the case
31 in any court of competent jurisdiction. One of such
32 receipts shall be filed with the clerk of the county
33 commission on or before the day on which the right to
34 redeem expires. The clerk shall endorse on both receipts
35 the fact and time of such filing, and shall note the fact
36 of redemption on his record of delinquent lands. If the
37 receipt is not filed on or before such date, the redemp-
38 tion shall be void as to creditors and subsequent bona
39 fide purchasers from the purchaser, his heirs or assigns.
40 If, however, the receipt is filed after the date required,
41 it shall operate as notice from and after the date of
42 filing. In April of each year the clerk of the county
43 commission shall prepare and certify to the auditor a list
44 of all redemptions from sales to individual purchasers,
45 which have not been included in any former list.
46 Any person who, by reason of the fact that no
47 provision is made for partial redemption of the tax lien
48 on real estate purchased by an individual, is compelled
49 in order to protect himself to redeem the tax lien on all
50 of such real estate when it belongs in whole or in part
51 to some other person, shall have a lien on the interest
52 of such other person for the amount paid to redeem such
53 interest. He shall lose his right to the lien, however,
54 unless within thirty days after payment he shall file
55 with the clerk of the county commission his claim in
56 writing against the owner of such interest, together with
57 the receipt provided for in this or section seven of this
58 article. The clerk shall docket the claim on the judgment
59 lien docket in his office and properly index the same.
60 Such lien may be enforced as other judgment liens are
61 enforced.

§11A-4-7. Payment of redemption money to clerk.

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

§11A-4-8. Contest of redemption by payment to clerk.

1 If the purchaser, his heirs or assigns, dispute the right
to redeem of the person making payment to the clerk
as provided in section seven of this article, he or they
may, within one year after payment to the clerk, give
to such person, or to his heirs, or personal representa-
tive, notice in writing of such dispute, requiring him or
them to appear before the circuit court of the county,
on a day to be named in the notice, and prove that the
person who made the payment had a right to redeem.
Such notice shall be served at least ten days before the
day on which it is returnable, and if the party served
fails to appear, or if he appears and fails to prove the
right to redeem, the court shall enter an order cancel-
ing the redemption and, if the period of redemption has
then expired and all other conditions of section twenty-
three, article three of this chapter have been complied
with, directing the clerk to execute and deliver to the
purchaser, or his heirs or assigns, a deed for the
property. If the other conditions have not been complied
with, the court may enter an order allowing reasonable
additional time for compliance, authorizing, as a
substitute for the notice required by section twenty-five
of said article three, preparation and service of a notice
to redeem within ninety days, and directing the clerk
to execute the deed upon the expiration of such period
of redemption. Any deed executed pursuant to an order
of the court provided for in this section shall have the
same force and effect as if executed and delivered
within the time specified in section twenty-seven of said
article three. The clerk of the county commission shall
enter such order on his record of delinquent lands and
shall return the money to the person who made the
payment, or to his personal representative. If, however,
the decision is that such person had the right to redeem,
the clerk shall pay the money to the purchaser, or his
heirs or assigns.

If the purchaser, his heirs or assigns, admit the right
to redeem but claim that the sum paid the clerk was insufficient, he or they may upon similar notice have the sufficiency of the payment determined by the court. If the person redeeming fails to appear or if the decision is that the sum paid was insufficient, the court shall, unless such additional amount as may be found to be due is paid within thirty days, enter an order cancelling the redemption, and shall also enter such further appropriate orders as are authorized to be entered under the preceding paragraph. If the sum is found to have been sufficient, the court shall make such orders as are appropriate when the right to redeem is sustained under the preceding paragraph of this section.

§11A-4-9. Redemption by persons under disability from purchase by individual.

In addition to and notwithstanding any other provisions of this article, any infant or mentally incapacitated person whose real estate was, during such disability, conveyed by tax deed pursuant to this chapter to an individual purchaser, may redeem such real estate by paying to the purchaser, or his heirs or assigns, before the expiration of one year after removal of the disability, but in no event more than twenty years after the deed was obtained, the amount of the purchase money, together with the necessary charges incurred in obtaining the deed, and any taxes paid on the property since the sale, with interest on such items at the rate of twelve percent per annum from the date each was paid. If such person was the owner of an undivided interest in the real estate sold, he may redeem such interest by paying that proportion of the purchase money, charges, taxes and interest chargeable to his interest; but after a deed has been delivered to the purchaser, he shall not have the right to redeem more than his own undivided interest. If improvements have been made on such real estate after the deed was obtained and before the offer to redeem as herein provided, the person redeeming shall pay to the purchaser, or his heirs or assigns, the value of the improvements at the time of such offer, after deducting therefrom the value of the use of such real estate without the improvements, from the date of
the deed to the date of the offer. Upon payment or

tender of payment, the purchaser, his heirs or assigns,

shall, at the expense of the person redeeming, convey to

him by quitclaim deed the real estate so redeemed.

One entitled to redeem under the provisions of this

section may, if he is unable or is not willing to pay for

the improvements made by the purchaser, elect to

relinquish his interest in the property. If he so elects,

he shall be entitled to an amount equal to the estimated

present value of the land without the improvements less

what he would have had to pay to redeem the land had

no improvements been made. Upon payment to him of

such amount, he shall by quitclaim deed convey the land

to the purchaser, his heirs or assigns.

If in any case provided for in this section the parties

cannot agree on the amount to be paid, any of them may

upon ten days' notice in writing to the other, or others,

apply by petition, to the circuit court of the county in

which the real estate is situated to have the matter

referred to a commissioner to ascertain the proper

amount to be paid. Upon confirmation by the court or

judge of the report of the commissioner, and upon

payment or tender of the amount, if any, so ascertained

to be due, the person to whom payment or tender was

made, shall execute the quitclaim deed as provided

above. In the event of his refusal to do so, the court, or

judge, may appoint a commissioner to execute the deed.

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

in which there was no dispute as to the amount

necessary for redemption, the person entitled to the deed

may, upon ten days' notice in writing to the other party

or parties, apply by petition to the circuit court for the

appointment of a commissioner to execute the deed.

§11A-4-10. Redemption from purchase by county.

The former owner of any real estate for which a tax

lien thereon was purchased by the county, or any other

person who was entitled to pay the taxes thereon, may

redeem the lien on such real estate from the clerk of the

county commission at any time prior to the issuance of

a tax deed therefor pursuant to the provisions of this
In order to redeem the person seeking redemption must pay to the clerk such of the following amounts as may be due: (1) The taxes, interest and charges for which the tax lien on the real estate was sold, with interest at the rate of twelve per cent per annum from the date of sale; (2) all taxes assessed thereon for the year in which the sale occurred, with interest at the rate of twelve per cent per annum from the date on which they became delinquent, except when such taxes are currently due and payable to the sheriff; and (3) the fee provided by section eleven of this article for the issuance by the clerk of the certificate of redemption.

In the case of partial redemption, he must pay only that proportion of such taxes as are chargeable to the part or interest redeemed, but must pay all of the other charges and the fee required for redemption of the whole. However, redemption of an undivided interest included in a group assessment or of part of a tract or lot the whole of which was assessed in the name of a person other than the owner shall not be permitted until the applicable provisions of section nine or of section ten, article one of this chapter, have been complied with.

§11A-4-11. Certificate of redemption issued by clerk; recordation; disposition of redemption money.

Upon payment of the sum necessary to redeem, the clerk shall execute a certificate of redemption in duplicate, which certificate shall specify the real estate redeemed, or the part thereof or the interest therein, as the case may be, together with any changes in respect thereto which were made in the landbook and in the record of delinquent lands; shall specify the year or years for which payment was made; and shall state that it is a receipt for the money paid and a release of the county's title to the tax lien on the real estate redeemed. The original certificate shall be retained in the files in the clerk's office and one copy shall be delivered to the person redeeming. The clerk shall make any necessary changes in his record of delinquent lands and shall note
the fact of redemption on such record, and shall record
the certificate in a separate volume provided for the
purpose.

The fee for issuing the certificate of redemption shall
be twenty-five dollars.

All certificates of redemption issued by the clerk in
each year shall be numbered consecutively and shall be
filed by the clerk in numerical order. Reference to the
year and number of the certificate shall be included in
the notation of redemption required herein. No fee shall
be charged by the clerk for any recordation, filing or
notation required by this section.

Any redemption money received by the clerk pursuant
to the provisions of this chapter shall be delivered to the
sheriff for disposition thereof pursuant to the provisions
of sections ten and thirty-four, article three of this
chapter.

§11A-4-12. Liability of officer failing to perform duty;
penalty.

If any officer mentioned in this article shall fail or
refuse to perform 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 dollars for each failure or
refusal, unless a different penalty is imposed by the
provisions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect July 1, 1993.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is hereby approved this the 12th day of May, 1993.

Governor