WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED

SENATE BILL NO. 564

(By Senator Wooton, ET AL.)

PASSED March 11, 1995
In Effect Passage
ENROLLED

Senate Bill No. 564

(By Senators Wooton, Ross, Deem, Schoonover, Dittmar, Miller and Anderson)

[Passed March 11, 1995; in effect from passage.]

AN ACT to amend and reenact section six, article twenty-two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section eight, article one, chapter eleven-a of said code; to amend and reenact sections two, three, five, ten, thirteen, sixteen, eighteen, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-seven, twenty-eight, twenty-nine, forty-five, forty-six, forty-seven, fifty, fifty-one, fifty-two, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-four and sixty-six, article three of said chapter; and to further amend said article by adding thereto six new sections, designated sections sixty-nine, seventy, seventy-one, seventy-two, seventy-three and seventy-four, all relating to the taxation of real property; and the disposition of lands for the nonpayment of taxes.

Be it enacted by the Legislature of West Virginia:


That section six, article twenty-two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section eight, article one, chapter eleven-a of said code be amended and reenacted; that sections two, three, five, ten, thirteen, sixteen, eighteen, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-seven, twenty-eight, twenty-nine, forty-five, forty-six, forty-seven, fifty, fifty-one, fifty-two, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-four and sixty-six, article three of said chapter be amended and reenacted; and that said article be further amended by adding thereto six new sections, designated sections sixty-nine, seventy, seventy-one, seventy-two, seventy-three and seventy-four, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

§11-22-6. Duties of clerk; declaration of consideration or value; filing of sales listing form for tax commissioner; disposition and use of proceeds.

1 When any instrument on which the tax as herein provided is imposed is offered for recordation, the clerk of the county commission shall ascertain and compute the amount of the tax due thereon and shall ascertain if stamps in the proper amount are attached thereto as a prerequisite to acceptance of the instrument for recordation.

2 When offered for recording, each instrument subject to the tax as herein provided shall have appended on the face or at the end thereof, a statement or declaration signed by the grantor, grantee or other responsible party familiar with the transaction therein involved declaring the consideration paid for or the value of the property thereby conveyed. Such declaration may be in the following language:

16 "DECLARATION OF CONSIDERATION OR VALUE

17 I hereby declare:
(a) The total consideration paid for the property conveyed by the document to which this declaration is appended is $_____; or 

(b) The true and actual value of the property transferred by the document to which this declaration is appended is, to the best of my knowledge and belief $_____; or 

(c) The proportion of all the property included in the document to which this declaration is appended which is real property located in West Virginia is _____%; the value of all the property $_____; the value of real estate in West Virginia is $_____; or 

(d) This deed conveys real estate located in more than one county in West Virginia; the total consideration paid for, or actual cash value of, all the real estate located in West Virginia conveyed by this document is $_____; and documentary stamps showing payment of all of the excise tax on all of said real estate are attached to an executed counterpart of this deed recorded in _____________ County.

Given under my hand this ___ day of ____________, 19_.

Signed ___________________________ (Indicate whether grantor, grantee, or other interest in conveyance). ___________________________ Address”

Such declaration shall be considered by the clerk in ascertaining the correct number of stamps required, and if declaration (d) is used, no stamps shall be required on the duplicate deed to which it is attached and such duplicate deed shall be admitted to record and when recorded shall have the same effect for all purposes as if stamps were attached thereto.

On or after the first day of July, one thousand nine hundred eighty-three, the clerk shall not record any document with stamps affixed unless there is tendered with the document a completed and verified sales listing
form for the benefit and use of the state tax commissioner. Preprinted forms for this purpose shall be provided each clerk by the tax commissioner.

The forms shall require the following information: (1) If the last deed in the chain of title represents the last transfer of the property, the names of the grantor and grantee and the deedbook and page number; or (2) if the last transfer was not made by deed, the source of the grantor's title, if known; or (3) if the source of the grantor's title is unknown, a description of the property and the name of the person to whom real property taxes are assessed as set forth in the landbook prepared by the assessor. In all cases the forms shall require the tax map and parcel number of the property, the district or municipality in which the real property or the greater portion thereof lies, the address of the property, the consideration or value in money, including any other valuable goods or services, upon which the buyer and seller agree to consummate the sale and any other financing arrangements affecting value. The sales listing form required by this paragraph is to be completed in addition to, and not in lieu of, the declaration required by this section: Provided, That the tax commissioner may design and provide a form which combines into one the contents of the declaration and the sales listing form required herein and recording and filing of that form may be used as an alternative to filing the sales listing form required herein: Provided, however, That the filing with the clerk of a duplicate deed containing the sales listing form information required by this section shall also satisfy the requirements of this section regarding the sales listing form. The clerk shall, at the end of the month, pay all of the proceeds collected from the sale of stamps for the county excise tax into the county general fund for use of the county.

On or before the tenth day of each month the clerk shall deliver to the tax commissioner, or a person designated by the tax commissioner, the sales listing forms or such other alternative forms as may be authorized by
this section for documents recorded during the preceding month.

The sales listing form required by this section shall also include a portion thereof for the information required of a person claiming a lien against the real property described in the document who desires to file a statement pursuant to the provisions of subsection (a), section three, article three, chapter eleven-a of this code.

Upon receipt of the form, the clerk shall, no later than the end of the business day upon which it was received, provide a copy of the statement to the assessor and a copy thereof to the sheriff. The assessor shall note the lien and any new owner of the real property indicated on the sales listing form upon his landbooks. The sheriff shall promptly compare the information contained in the sales listing form with his records and shall:

1. Provide the lienholder such notice as the lienholder would thereafter otherwise be entitled to receive pursuant to the provisions of chapter eleven-a of this code had the lienholder provided the information in the form of a statement as permitted by the provisions of section three, article three of said chapter;

2. Provide any other person listed on the sales listing form such notice as the person would thereafter otherwise be entitled to receive as a result of the person's interest in the real property pursuant to the provisions of chapter eleven-a of this code;

3. Deliver to any person listed on the sales listing form as the new owner of the real property described in the document a copy of any subsequently issued tax ticket required to be sent by the provisions of section eight, article one, chapter eleven-a of this code; and

4. Promptly notify any person listed on the sales listing form as the lienholder or the new owner of the real property of any due and unpaid taxes assessed against the property.

CHAPTER 11A. COLLECTION AND ENFORCEMENT OF
PROPERTY TAXES.

ARTICLE 1. ACCRUAL AND COLLECTION OF TAXES.


(a) The sheriff may give notice by posting at not less than six public places in each magisterial district, for at least ten days before the time appointed, that between the fifteenth day of July and the thirty-first day of August he will attend at one or more of the most public and convenient places in each district, such places to be specified in the notice, for the purpose of receiving taxes due by the people residing or paying taxes in such district. The notice shall also state that those who pay the first installment of their taxes on or before the first day of September will be entitled to a discount of two and one-half percent. Like notice may be given that between the fifteenth day of January and the twenty-eighth day of February he will again appear in each district for the collection of taxes, and that those who pay their second installment on or before March first will be entitled to the same discount. Failure of the sheriff to post such lists shall not impair the right to collect such taxes, the right to collect any interest or penalty imposed as a result of the failure to pay such taxes or the methods of enforcing the payment of such taxes, interest or penalty.

The county commission of any county may order that the above notice shall also be given by advertisement. Such an order, once entered, shall continue in effect until rescinded by the county commission. Upon entry of such order, the sheriff shall, besides posting as required above, publish the proper notice as a Class II 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 be so published within fourteen consecutive days next preceding the fifteenth day of July or the fifteenth day of January as the case may be. For
every failure so to advertise, the sheriff shall forfeit one
hundred dollars.

Notwithstanding the foregoing provisions, the sheriff
shall send to every person owing real or personal prop-
erty taxes a copy of such taxpayers annual tax ticket or
tickets showing what tax is due and how such tax may
be paid. Such copy shall be sent to the last known
address of such taxpayer by first class United States
mail.

Failure of the sheriff to send or failure of the taxpayer
to receive such copy shall not impair the right to collect
such taxes, the right to collect any interest or penalty
imposed as a result of the failure to pay such taxes or the
method of enforcing the payment of such taxes, interest
or penalty.

At such time as the sheriff prepares the delinquent list
for real property, he shall compare such list with a copy
of the landbooks most recently delivered by the assessor
to the board of review and equalization pursuant to
section nineteen, article three, chapter eleven of this
code. The assessor shall make a copy of said landbooks
available to the sheriff. If property on the delinquent list
should appear as a transfer on said landbooks with the
delinquent owner as the transferor, the sheriff shall send
to the transferee at his last known address by first class
United States mail a copy of the annual tax ticket or
tickets showing what taxes are due upon the real prop-
erty of such transferee and how they may be paid as
prescribed in this section.

Failure of the sheriff to send or failure of the taxpayer
to receive such copy shall not impair the right to collect
such taxes, the right to collect any interest or penalty
imposed as a result of the failure to pay such taxes or the
method of enforcing the payment of such taxes, interest
or penalty.

(b) In addition to the notice of real or property taxes
owed, provided in this section, the county commission of
any county may order that the sheriff include in the
mailing notice of any taxes or other fees owed to the
county or a municipality in the county.

(c) (1) The sheriff may accept credit cards in payment
of any of the taxes, interest or penalty described in this
section. The type of credit card accepted shall be at the
discretion of the sheriff.

(2) The sheriff may set a fee to be added to each credit
card transaction equal to the charge paid by the state,
county, sheriff or taxpayer for the use of the credit card
by the taxpayer. Except for fees imposed pursuant to
this subdivision, no other fees for the use of a credit card
may be imposed upon the taxpayer.

(3) Except as provided in subsection (a) of this section,
in no event shall the sheriff discount or otherwise reduce
the tax liability of a taxpayer who has elected to use a
credit card for the payment of the tax liability.

(d) The tax commissioner may promulgate legislative
rules to provide for the payment of tax liability by
installment payments other than those prescribed in
subsection (a) of this section.

ARTICLE 3. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.

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

(a) On or before the tenth day of September 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 the first day of September,
together with a notice of sale, in form or effect as fol-
lows:

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 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 charged with taxes</th>
<th>Quantity of land</th>
<th>Local description</th>
<th>Total amount of taxes, interest and charges due to 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-0 legal adver-
tisement 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:
(1) To the last known address of each person listed in the landbooks whose taxes are delinquent; (2) 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; (3) to each other person with an interest in the property or with a fiduciary relationship to a person with an interest in the property who has in writing delivered to the sheriff on a form prescribed by the tax commissioner a request for such notice of delinquency; and (4) in the case of property which includes a mineral interest but does not include an interest in the surface other than an interest for the purpose of developing the minerals, to each person who has in writing delivered to the sheriff, on a form prescribed by the tax commissioner, a request for such notice which identifies the person as an owner of an interest in the surface of real property that is included in the boundaries of such property: 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 or fifty-nine of this article.

(c) (1) To cover the cost of preparing and publishing the second delinquent list, a charge of seven dollars and fifty cents 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, lienholder or any other person entitled thereto pursuant to this section, 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 the first day of September 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.

(a) Any person claiming a lien against real property shall be deemed to have waived the right to notice provided by section two of this article unless he shall have filed a statement declaring such interest with the sheriff. Such statement shall be filed upon creation of the lien and upon release of said lien and upon any change of the lienholder's postal address since the original filing of such statement.

Such statement shall be sufficient if it is filed at the time the document creating the lien is filed and when said lien is released on a form and in a manner to be prescribed from time to time by the tax commissioner, which form shall include the name of the person charged with taxes for the real property; the tax map and parcel number of the property; the assessor's account number of the property; a description of the interest claimed; and the address to which notice is to be sent: Provided, That it shall be sufficient for purposes of this section if the information required by this section is provided on a sales listing form prescribed in section six, article twenty-two, chapter eleven of this code and filed with the clerk of the county commission at the time of the
filing of the document. The statement may be amended at any time by the person claiming the lien, upon such amended form and in such manner as may be prescribed by the tax commissioner: Provided, however, That in counties with a population greater than two hundred thousand any person claiming liens against more than fifty parcels of real estate may file such statement electronically in a similar format as before described designed by the tax commissioner.

(b) At least once a year prior to the first day of July, the sheriff shall publish a notice that any person claiming a lien against taxable real property must file the 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-3-5. Sale by sheriff; immunity; penalty; mandamus.

(a) The tax lien on each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein shall be sold by the sheriff, in the same order as set forth in the list and notice prescribed in section two of this article, at public auction to the highest bidder, between the hours of ten in the morning and four in the afternoon on any business working day after the fourteenth day of October and before the twenty-third day 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
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. The payment for any tax lien purchased at a sale shall be made by check or money order payable to the sheriff of the county and delivered before the close of business on the day of the sale.

(b) Each sheriff is immune from liability if a loss or claim results from the sale of a tax lien conducted pursuant to the provisions of this article or from any subsequent conveyance of the property to which the lien attaches: Provided, That where a sheriff fails or refuses to sell said tax lien pursuant to the provisions of this article for reasons other than those provided by section seven of this article, the sheriff may be compelled by mandamus to sell the same upon the petition of the auditor or any taxpayer of the county in a court of competent jurisdiction.

§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”. Where there is a redemption after the sale, the sheriff shall also deposit into said fund the amount of taxes, interest and charges due on the date of the sale, plus the interest at the rate of one percent per month from the date of sale to the date of redemption, described in subdivision (2), subsection (b), section twenty-four of this article. Such surpluses shall be disposed of as follows:

(1) In any case where the property was redeemed, such surplus shall be distributed to the person or persons who
purchased the tax lien thereon, or the heirs, devisees, legatees, executors, administrators, successors or assigns thereof.

(2) If the purchaser, his heirs, devisees, legatees, executors, administrators, successors or assigns cannot be found within two years from and after the date of redemption, 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, redemptions and certifications, 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-3-13. 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 and certifications made by him, in form or effect as follows, which list shall be published as a Class II-0 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 ____________, 19____, for nonpayment of taxes thereon for the year (or years) 19____, and purchased by individuals or certified to the auditor of the state of West Virginia:

<table>
<thead>
<tr>
<th>Name of person charged with taxes</th>
<th>Local description of land charged</th>
<th>Quantity of land for which tax lien is sold</th>
<th>Quantity of land sold</th>
<th>Name of purchaser</th>
<th>Whole amount paid by purchaser</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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__.

Sheriff

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

§11A-3-16. Subsequent tax payments by purchaser.

Any person who has paid any subsequent taxes on lands for which he holds the certificate of sale described in section fourteen or fifteen of this article shall produce such certificate and copies of paid tax receipts to the clerk of the county commission, who shall endorse the amount of such subsequent taxes and the date of payment thereof in his records upon the payment to the clerk of a fee therefor in the amount of two dollars.

§11A-3-18. Limitations on tax certificates.

(a) No lien upon real property evidenced 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 eighteen months after the original issuance thereof.

(b) No tax deed shall issue on any tax sale evidenced by a tax certificate of sale where such certificate 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) Whenever a lien evidenced by a tax certificate of sale has expired by reason of the provisions of this section, the county clerk shall immediately issue and
record 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 a copy of every such certificate of cancella-
tion to the sheriff who shall enter the same in his records
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
evidenced 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.


Whenever the provisions of section nineteen 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 equal to the taxes, interest, and charges due
on the date of sale, with interest to March 31, 19_
.......$_________

Amount of taxes paid on the property, since the sale,
with interest to March 31, 19_ .........................
$_________

Amount paid for title examination and preparation of
list of those to be served, and for preparation and service
of the notice with interest to March 31, 19_
................... $_________

Amount paid for other statutory costs
(describe) __________________ .........................
________________________........................ $_________

Total ................ $_________

You may redeem at any time before March thirty-first,
nineteen hundred ____________, 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 five dollars for the original and one
dollar 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-3-22. Service of notice.

As soon as the clerk has prepared the notice provided for in section twenty-one 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 nineteen 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 thirtieth 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-0 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 and preserved by the clerk in his office, together with any return receipts for notices sent by certified mail.

§11A-3-23. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming
interest of another; record.

(a) After the sale of any tax lien on any real estate pursuant to section five of this article, 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 clerk of the county commission the following amounts: (1) An amount equal to the taxes, interest and charges due on the date of the sale, with interest thereon 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 preparing the list of those to be served with notice to redeem and any title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount he shall be required to pay, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by section nineteen of this article and any title examination incident thereto, shall not exceed two hundred dollars; and (4) all additional statutory costs paid by the purchaser. Where the clerk has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, and any examination of title incident thereto, in the form of receipts or other evidence thereof, the person redeeming shall pay the clerk the sum of two hundred dollars plus interest thereon at the rate of one percent per month from the date of the sale for disposition by the sheriff pursuant to the provisions of sections ten, twenty-four, twenty-five and thirty-two of this article.

The person redeeming shall be given a receipt for the payment.

(b) Any person who, by reason of the fact that no
provision is made for partial redemption of the tax lien on real estate purchased by an individual, is compelled in order to protect himself to redeem the tax lien on all of such real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He shall lose his right to the lien, however, unless within thirty days after payment he shall file with the clerk of the county commission his claim in writing against the owner of such interest, together with the receipt provided for in this section. The clerk shall docket the claim on the judgment lien docket in his office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

§11A-3-24. Notice of redemption to purchaser; moneys received by sheriff.

(a) Upon payment of the sum necessary to redeem, the clerk shall deliver to the sheriff the redemption money paid and the name and address of the purchaser, his heirs and assigns. The clerk shall also note the fact of redemption on his record of delinquent lands.

(b) Of the redemption money received by the sheriff pursuant to this section, the sheriff shall deposit into the sale of tax lien surplus fund provided by section ten of this article the amount thereof equal to the amount of taxes, interest and charges due on the date of the sale, plus the interest at the rate of one percent per month thereon from the date of sale to the date of redemption.

§11A-3-25. Distribution of surplus to purchaser.

(a) Where the land has been redeemed in the manner set forth in section twenty-three of this article, and the clerk has delivered the redemption money to the sheriff pursuant to section twenty-four of this article, the sheriff shall, upon delivery of the sum necessary to redeem, promptly notify the purchaser, his heirs or assigns, by mail, of the fact of the redemption and pay to the purchaser, his heirs or assigns the following
amounts: (1) From the sale of tax lien surplus fund provided by section ten of this article: (A) The surplus of money paid in excess of the amount of the taxes, interest and charges due and paid to the sheriff at the sale; and (B) the amount of taxes, interest and charges due on the date of the sale, plus the interest at the rate of one percent per month from the date of sale to the date of redemption; (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 preparing the list of those to be served with notice to redeem and any title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by section nineteen of this article, and any title examination incident thereto, shall not exceed two hundred dollars; and (4) all additional statutory costs paid by the purchaser.

(b) (1) The notice shall include:

(A) A copy of the redemption certificate issued by the county clerk;

(B) An itemized statement of the redemption money to which the purchaser is entitled pursuant to the provisions of this section; and

(C) Where, at the time of the redemption, the clerk has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem and any title examination incident thereto, the clerk shall also include instructions to the purchaser as to how these expenses may be claimed.

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in
preparing the list of those to be served with notice to
redeem and any title examination incident thereto from
the date of the sale to the date of the redemption.

(c) Where, pursuant to section twenty-three of this
article, the clerk has not received from the purchaser
satisfactory proof of the expenses incurred in preparing
the list of those to be served with notice to redeem, and
any title examination incident thereto, in the form of
receipts or other evidence thereof, and therefore received
from the purchaser as required by said section and
delivered to the sheriff the sum of two hundred dollars
plus interest thereon at the rate of one percent per month
from the date of the sale to the date of redemption, and
the sheriff has not received from the purchaser such
satisfactory proof of such expenses within thirty days
from the date of notification, the sheriff shall refund
such amount to the person redeeming and the purchaser
is barred from any claim thereto. Where pursuant to
said section, the clerk has received from the purchaser
and therefore delivered to the sheriff said sum of two
hundred dollars plus interest thereon at the rate of one
percent per month from the date of the sale to the date of
redemption, and the purchaser provides the sheriff
within thirty days from the date of notification such
satisfactory proof of such expenses, and the amount of
such expenses is less than the amount paid by the person
redeeming, the sheriff shall refund the difference to the
person redeeming.

§11A-3-27. Deed to purchaser; record.

1 If the real estate described in the notice is not re-
deeed within the time specified therein, but in no event
prior to the first day of April of the second year follow-
ing the sheriff’s sale, the person entitled thereto shall
make and deliver to the clerk of the county commission
at any time thereafter, subject to the provisions of
section eighteen of this article, a quitclaim 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,
device or assignee of \____________\, pur-
chaser), grantees, 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 1\_\_\_, sell the
tax lien(s) on real estate, hereinafter mentioned and
described, for the taxes delinquent thereon for the year
(or years) 1\_\_\_, 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 the tax lien(s) on such real
estate (or on \_______\ acres, part of the tract or land, or
on 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 statutes, doth grant
unto \____________\, grantees, his heirs and assigns
forever, the real estate on which the tax lien(s) so pur-
chased existed, situate in the county of
\____________\, bounded and described as
follows: \____________\.
Enr. S. B. No. 564]

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, no clerk of the county commission shall execute and deliver such a deed more than thirty days 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 seven dollars and fifty cents and the recording expenses 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 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 certified 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-one and twenty-two of this article, the person requesting the notice may, at any time within two weeks after discovery of such failure or refusal, but in no event later than sixty days following the date the person requested that notice be prepared and served, 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 provi-
sions of section sixty-seven 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-two 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 sixty-seven 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
appears 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 proceed-
ings; 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 seven dollars and fifty cents and the recording expenses, to be paid by the grantee upon delivery of the deed.

§11A-3-29. One deed for adjoining pieces of real estate within the same tax district.

Whenever one purchaser at the tax sale has purchased tax liens on two or more adjoining pieces of real estate within the same tax district, or undivided interests therein, charged 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 adjoining piece of real estate within the same tax district, 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 adjoining real estate within the same tax district, or undivided interests therein, shall describe each piece of real estate and each undivided interest separately.

§11A-3-45. Deputy commissioner to hold annual auction.

(a) Each tract or lot certified to the deputy commissioner pursuant to the preceding section shall be sold by the deputy commissioner at public auction at the courthouse of the county to the highest bidder between the hours of ten in the morning and four in the afternoon on any business working day within one hundred twenty days after the auditor has certified the lands to the deputy commissioner as required by the preceding section. The payment for any tract or lot purchased at a sale shall be made by check or money order payable to the sheriff of the county and delivered before the close of business on the day of sale. No part or interest in any tract or lot subject to such sale, or any part thereof of
interest therein, that is less than the entirety of such
unredeemed tract, lot or interest, as the same is de-
scribed and constituted as a unit or entity in said list,
shall be offered for sale or sold at such sale. If the sale
shall not be completed on the first day of the sale, it shall
be continued from day to day between the same hours
until all the land shall have been offered for sale.

(b) A private, nonprofit, charitable corporation,
incorporated in this state, which has been certified as a
nonprofit corporation pursuant to the provisions of
Section 501(c)(3) of the federal Internal Revenue Code, as
amended, which has as its principal purpose the con-
struction of housing or other public facilities and which
notifies the deputy commissioner 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 as defined in this subsection,
shall be sold the property offered for sale by the deputy
commissioner pursuant to the provisions of this section
at the public auction as opposed to the highest bidder.

The nonprofit corporation referred to in this subsec-
tion does not include a business organized for profit, a
labor union, a partisan political organization or an
organization 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.

§11A-3-46. Publication of notice of auction.

Once a week for three consecutive weeks prior to the
auction required in the preceding section, the deputy
commissioner shall publish notice of the auction as a
Class III-0 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.

The notice shall be in form or effect as follows:
Notice is hereby given that the following described tracts or lots of land in the County of [insert County], have been certified by the Auditor of the State of West Virginia to [insert name], Deputy Commissioner of Delinquent and Nonentered Lands of said County, for sale at public auction. The lands will be offered for sale by the undersigned deputy commissioner at public auction in [specify location] the courthouse of [insert County] between the hours of ten in the morning and four in the afternoon, on the [insert date] day of [insert year], 19___.

Each tract or lot as described below will be sold to the highest bidder. The payment for any tract or lot purchased at a sale shall be made by check or money order payable to the sheriff of the county and delivered before the close of business on the day of the sale. If any of said tracts or lots remain unsold following the auction, they will be subject to sale by the deputy commissioner without additional advertising or public auction. All sales are subject to the approval of the auditor of the state of West Virginia.

(here insert description of lands to be sold)

Any of the aforesaid tracts or lots may be redeemed by any person entitled to pay the taxes thereon at any time prior to the sale by payment to the deputy commissioner of the total amount of taxes, interest and charges due thereon up to the date of redemption. Lands listed above as escheated or waste and unappropriated lands may not be redeemed.

Given under my hand this [insert date] day of [insert year], 19___. [Signature]

Deputy Commissioner of Delinquent and Nonentered Lands of [insert County].

The description of lands required in the notice shall be in the same form as the list certifying said lands to the deputy commissioner for sale. If the deputy commissioner is required to auction lands certified to him in any
previous years, pursuant to section forty-eight of this
article, he shall include such lands in the notice, with
reference to the year of certification and the item
number of the tract or interest.

To cover the cost of preparing and publishing the
notice, a charge of twenty-five dollars shall be added to
the taxes, interest and charges due on the delinquent and
nonentered property.

§11A-3-47. Redemption prior to sale.

Any of the delinquent and nonentered lands certified
to the deputy commissioner may be redeemed, prior to
the auction, by the owner of such land or any other
person entitled to pay the taxes thereon, by payment of
the taxes, interest and charges due. The deputy commis-
sioner shall prepare an original and five copies of the
receipt, give to the person redeeming the original receipt,
retain one copy for his files and forward one copy each
to the sheriff, auditor, assessor and the clerk of the
county commission, each of whom shall note the fact of
such redemption on their respective records of delin-
quent lands. Any person redeeming the interest of
another shall be subrogated to the lien of the state on
such interest as provided in section nine, article one of
this chapter.

§11A-3-50. Receipt to purchaser for purchase price.

The deputy commissioner shall prepare an original and
two copies of the receipt for the purchase money. He
shall give the original receipt to the purchaser and shall
file one copy thereof with the clerk of the county com-
mission and one copy thereof with the sheriff, each of
whom shall note the fact of such sale on their respective
records of delinquent lands. The heading of the receipt
shall be:

Memorandum of real estate sold in the county of
_______ on this____ day of______, 19____, by
_______, the deputy commissioner of delinquent
and nonentered lands of said county.
Except for the heading, the auditor shall prescribe the form of the receipt.

**§11A-3-51. Deputy commissioner to report sales to auditor; auditor to approve sales.**

Within fourteen days following the auction required by section forty-five of this article, and within fourteen days of any sale pursuant to section forty-eight of this article, the deputy commissioner must report such sales to the auditor. The report must include the year that the land was certified by the auditor for sale, the item number of the land on the list certifying the land for sale, the amount of taxes, interest and charges due on such land at the time of the sale, the quantity of the land, the name and address of the purchaser and the purchase price. The report shall be filed with the auditor. The auditor may prescribe the form of the report.

As soon as possible after receiving the report, the auditor shall determine whether the sale is in the best interest of the state and shall either approve or disapprove the sale. The auditor shall then note such approval or disapproval and, if disapproved, the reasons therefor, on the report, and return a copy to the deputy commissioner. The original shall be retained by the auditor. The deputy commissioner shall provide a copy of the report approved or disapproved by the auditor to the sheriff and to the county clerk.

If the auditor shall disapprove any such sale, the deputy commissioner shall forthwith refund the purchase price to the purchaser. The land shall then be again subject to sale pursuant to sections forty-five and forty-eight of this article. If the auditor approves the sale, the purchaser shall immediately commence the steps to obtain a deed, as provided in section fifty-two of this article.

**§11A-3-52. What purchaser must do before he can secure a deed.**

(a) Within forty-five days following the approval of the
sale by the auditor pursuant to section fifty-one of this
article, the purchaser, his heirs or assigns, in order to
secure a deed for the real estate purchased, shall: (1)
Prepare a list of those to be served with notice to redeem
and request the deputy commissioner to prepare and
serve the notice as provided in sections fifty-four and
fifty-five of this article; and (2) deposit, or offer to
deposit, with the deputy commissioner a sum sufficient
to cover the costs of preparing and serving the notice.
For failure to meet these requirements, the purchaser
shall lose all the benefits of his purchase. The deputy
commissioner may then sell the property in the same
manner as he sells lands which have been offered for sale
at public auction but which remain unsold after such
auction, as provided in section forty-eight of this article.

(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 deputy commissioner a
written assignment to him of the purchaser's rights,
exeuted, acknowledged and certified in the manner
required to make a valid deed.

§11A-3-54. Notice to redeem.

Whenever the provisions of section fifty-two of this
article have been complied with, the deputy commis-
ioner 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 following real
estate, _________________, (here describe the real estate
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 _________________, (here
put whether the property was returned delinquent or
nonentered) in the name of _________________, and was
sold by the deputy commissioner of delinquent and nonentered lands of ________ County at the sale for delinquent taxes (or nonentry) 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 _____ day of ____________, 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 ______ day of ____________, 19____ will be as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount equal to the taxes, interest and charges due on the date of sale, with interest to</td>
<td>$___________</td>
</tr>
<tr>
<td>Amount of taxes paid on the property, since the sale, with interest to</td>
<td>$___________</td>
</tr>
<tr>
<td>Amount paid for title examination and preparation of list of those to be served, and for preparation and service of the notice with interest to</td>
<td>$___________</td>
</tr>
<tr>
<td>Amount paid for other statutory costs (describe)</td>
<td>$___________</td>
</tr>
<tr>
<td>Total</td>
<td>$___________</td>
</tr>
</tbody>
</table>

You may redeem at any time before ________________ by paying the above total less any unearned interest.

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

Deputy Commissioner of Delinquent and Nonentered Lands

____________ County,

State of West Virginia

The deputy commissioner 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 deputy commissioner. All costs provided
by this section shall be included as redemption costs and
included in the notice described herein.

§11A-3-55. Service of notice.

As soon as the deputy commissioner has prepared the
notice provided for in section fifty-four of this article, he
shall cause it to be served upon all persons named on the
list generated by the purchaser pursuant to the provi-
sions of section fifty-two of this article. Such notice
shall be mailed and, if necessary, published at least
thirty days prior to the first day a deed may be issued
following the deputy commissioner’s sale.

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 thirtieth 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-0 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, publi-
cation 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 and preserved by the auditor in his office, together with any return receipts for notices sent by certified mail.

§11A-3-56. Redemption from purchase; receipt; list of redemption; lien; lien of person redeeming interest of another; record.

(a) After the sale of any tax lien on any real estate pursuant to section forty-five or forty-eight of this article, 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 deputy commissioner the following amounts: (1) An amount equal to the taxes, interest and charges due on the date of the sale, with interest thereon 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 preparing the list of those to be served with notice to redeem, and any title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount he shall be required to pay, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by section fifty-two of this article, and any title examination incident thereto, shall not exceed two hundred dollars; (4) all additional statutory costs paid by the purchaser; and (5) the deputy commissioner’s fee and commission as provided by section sixty-six of this article. Where the deputy commissioner has not received from the purchaser satisfactory proof of the expenses
incurred in preparing the notice to redeem, and any examination of title incident thereto, in the form of receipts or other evidence thereof, the person redeeming shall pay the deputy commissioner the sum of two hundred dollars plus interest thereon at the rate of one percent per month from the date of the sale for disposition pursuant to the provisions of sections fifty-seven, fifty-eight and sixty-four of this article. Upon payment to the deputy commissioner of those and any other unpaid statutory charges required by this article, and of any unpaid expenses incurred by the sheriff, the auditor and the deputy commissioner in the exercise of their duties pursuant to this article, the deputy commissioner shall prepare an original and five copies of the receipt for the payment and shall note on said receipts that the property has been redeemed. The original of such receipt shall be given to the person redeeming. The deputy commissioner shall retain a copy of the receipt and forward one copy each to the sheriff, assessor, the auditor and the clerk of the county commission. The clerk shall endorse on the receipt the fact and time of such filing and note the fact of redemption on his record of delinquent lands.

(b) Any person who, by reason of the fact that no provision is made for partial redemption of the tax lien on real estate purchased by an individual, is compelled in order to protect himself to redeem the tax lien on all of such real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He shall lose his right to the lien, however, unless within thirty days after payment he shall file with the clerk of the county commission his claim in writing against the owner of such interest, together with the receipt provided for in this section. The clerk shall docket the claim on the judgment lien docket in his office and properly index the same. Such lien may be enforced as other judgment liens are enforced.
§11A-3-57. Notice of redemption to purchaser; moneys received by sheriff.

(a) Upon payment of the sum necessary to redeem, the deputy commissioner shall promptly deliver to the sheriff the redemption money paid and the name and address of the purchaser, his heirs or assigns.

(b) Of the redemption money received by the sheriff pursuant to this section, the sheriff shall hold as surplus to be disposed of pursuant to section sixty-four of this article an amount thereof equal to the amount of taxes, interest and charges due on the date of the sale, plus the interest at the rate of one percent per month thereon from the date of sale to the date of redemption.

§11A-3-58. Distribution to purchaser.

(a) Where the land has been redeemed in the manner set forth in section fifty-six of this article, and the deputy commissioner has delivered the redemption money to the sheriff pursuant to section fifty-seven of this article, the sheriff shall, upon delivery of the sum necessary to redeem, promptly notify the purchaser, his heirs or assigns, by mail, of the redemption and pay to the purchaser, his heirs or assigns, the following amounts: (1) The amount paid to the deputy commissioner at the 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 preparing the list of those to be served with notice to redeem, and any title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by section fifty-two of this article, and any title examination incident thereto, shall not exceed two hundred dollars; and (4) all additional statutory costs paid by the purchaser.
(b) (1) The notice shall include:

(A) A copy of the redemption certificate issued by the deputy commissioner;

(B) An itemized statement of the redemption money to which the purchaser is entitled pursuant to the provisions of this section; and

(C) Where, at the time of the redemption, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem and any title examination incident thereto, the deputy commissioner shall also include instructions to the purchaser as to how these expenses may be claimed.

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in preparing the list of those to be served with notice to redeem and any title examination incident thereto from the date of the sale to the date of the redemption.

(c) Where, pursuant to section fifty-six of this article, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, and any title examination incident thereto, in the form of receipts or other evidence thereof, and therefore received from the purchaser as required by said section and delivered to the sheriff the sum of two hundred dollars plus interest thereon at the rate of one percent per month from the date of the sale to the date of redemption, and the sheriff has not received from the purchaser such satisfactory proof of such expenses within thirty days from the date of notification, the sheriff shall refund such amount to the person redeeming and the purchaser is barred from any claim thereto. Where pursuant to section fifty-six of this article, the deputy commissioner has received from the purchaser and therefore delivered to the sheriff said sum of two hundred dollars plus interest thereon at the rate of one percent per month from the date of the sale to
the date of redemption, and the purchaser provides the
sheriff within thirty days from the date of notification
such satisfactory proof of such expenses, and the amount
of such expenses is less than the amount paid by the
person redeeming, the sheriff shall refund the difference
to the person redeeming.

§11A-3-59. Deed to purchaser; record.

If the real estate described in the notice is not re-
deemed within the time specified therein, but in no event
prior to thirty days after notices to redeem have been
personally served, or an attempt of personal service has
been made, or such notices have been mailed or, if
necessary, published in accordance with the provisions
of section fifty-five of this article, following the deputy
commissioner's sale, the deputy commissioner shall,
upon the request of the purchaser, make and deliver to
the person entitled thereto a quitclaim deed for such real
estate in form or effect as follows:

This deed, made this _____ day of __________ ,
19____, by and between __________ , deputy commis-
sioner of delinquent and nonentered lands of
__________ County, West Virginia, grantor, and
__________ , purchaser (or __________ , heir, devisee,
assignee of __________ , purchaser) grantee, witnesseth, that

Whereas, in pursuance of the statutes in such case
made and provided, __________ , deputy
commissioner of delinquent and nonentered lands of
__________ County, did, on the _____ day of
__________, 19____, sell the real estate hereinafter
mentioned and described for the taxes delinquent
thereon for the year(s) 19______ , (or as nonentered land
for failure of the owner thereof to have the land entered
on the landbooks for the years ________, or as prop-
erty escheated to the State of West Virginia, or as waste
or unappropriated property) for the sum of
$______________, that being the amount of pur-
chase money paid to the deputy commissioner, and
(here insert name of purchaser) did become the purchaser of such real estate, which was returned delinquent in the name of (or nonentered in the name of, or escheated from the estate of, or which was discovered as waste or unappropriated property); and

Whereas, the deputy commissioner has caused the notice to redeem to be served on all persons required by law to be served therewith; and

Whereas, the real estate so purchased has not been redeemed in the manner provided by law and the time for redemption set forth in such notice has expired.

Now, therefore, the grantor for and in consideration of the premises recited herein, and pursuant to the provisions of Article 3, Chapter 11A of the West Virginia Code, doth grant unto , grantee, his heirs and assigns forever, the real estate so purchased, situate in the County of , bounded and described as follows: (here insert description of property)

Witness the following signature:

__________________________________________
Deputy Commissioner of Delinquent and Nonentered Lands of County.

Except when ordered to do so as provided in section sixty of this article, the deputy commissioner shall not execute and deliver a deed more than thirty days after the purchaser's right to the deed accrued.

For the preparation and execution of the deed and for all the recording required by this section, a fee of fifty dollars and the recording expenses 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 assignment from the purchaser, if one was made, the notice to
§11A-3-60. Compelling service of notice or execution of deed.

If the deputy commissioner fails or refuses to prepare and serve the notice to redeem as required in sections fifty-four and fifty-five of this article, the person requesting the notice may, at any time within two weeks after discovery of such failure or refusal, but in no event later than sixty days following the date the person requested that notice be prepared and served, apply by petition to the circuit court of the county for an order compelling the deputy commissioner 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 deputy commissioner under the provisions of section sixty-seven of this article shall not be affected. Notice given pursuant to an order of the court or judge shall be valid for all purposes as if given within the time required by section fifty-five of this article.

If the deputy commissioner fails or refuses to prepare and execute the deed as required in the preceding section, 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 deputy commissioner to prepare and 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 deputy commissioner under the provisions of section sixty-seven of this article shall remain unaffected. Any deed executed pursuant to an order of the court shall have the same force and effect as if executed and delivered by the deputy commissioner within the time specified in the
Ten days' written notice of every such application must be given to the deputy commissioner. If, upon the hearing of such application, the court 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 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 deputy commissioner, an order shall be made by the court directing the deputy commissioner to prepare and serve the notice or execute the deed, or appointing a commissioner for the purpose, as the court or judge shall determine. The order shall be filed with the clerk of the circuit court and entered in the civil order book. If it appears to the court that the failure or refusal of the deputy commissioner 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 the deputy commissioner. For the preparation of the notice to redeem, he shall be entitled to the same fee as is provided for the deputy commissioner. For the preparation and execution of the deed, he shall also be entitled to a fee of fifty dollars and recording expenses to be paid by the grantee upon delivery of the deed.

§11A-3-61. One deed for adjoining pieces of real estate within the same tax district.

Whenever one purchaser at the tax sale has purchased tax liens on two or more adjoining pieces of real estate within the same tax district, or undivided interests therein, charged with taxes for the same year, or years, he, his heirs or assigns, may request the deputy commissioner to execute a separate deed for each adjoining piece of real estate within the same tax district, 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 adjoin-
ing pieces of real estate within the same tax district, or
undivided interests therein, shall describe each piece of
real estate and each undivided interest separately.

§11A-3-64. Sheriff to receive proceeds of deputy commis-
ers' sales and redemptions from the deputy
commissioner; disposition.

(a) The sheriff shall receive all proceeds of sales held
by the deputy commissioner pursuant to sections
forty-five and forty-eight of this article, and all redemp-
tion money paid to the deputy commissioner pursuant to
this article. All funds to be paid to the deputy commis-
sioner pursuant to sections forty-five, forty-eight and
fifty-six of this article shall be paid by check or money
order payable to the sheriff of the county. The deputy
commissioner shall, immediately upon receipt of any
such payment, turn such moneys over to the sheriff.

(b) The sheriff shall keep in a separate fund, to be
known and designated the "Delinquent Nonentered
Land Fund", the proceeds of all redemptions and sales
paid to him under the provisions of sections forty-five,
fifty-eight and fifty-six of this article. Out of the total
proceeds of each sale or redemption he shall, in the order
of priority stated below, credit the following amount for
payment as hereinafter provided: (1) To the deputy
commissioner, such part as represents compensation due
him under the provisions of section sixty-six of this
article and the charge for the cost of preparing and
publishing the notice required in section forty-six of this
article; (2) to the auditor, such part as represents any
charges which were paid by or which are payable to him;
(3) 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; and
(4) to the auditor for credit to the general school fund,
such part as represents all taxes and interest chargeable
in respect to any nonentered lands and all surplus
proceeds of sale of any waste and unappropriated lands.
In addition thereto, surplus proceeds from the deputy
commissioner's sale of delinquent and nonentered lands,
as well as the proceeds from the sale of escheated lands,
shall be held by the sheriff for the periods provided in
section sixty-five of this article and section seven, article
four of this chapter, and if no claim is made therefore to
the sheriff within the time therein specified, such
amounts shall be paid to the auditor for credit to the
general school fund.

The balance, if any, of the proceeds of the lands sold by
the deputy commissioner 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.

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

(d) 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.


As compensation for his services, the deputy commis-
sioner shall be entitled to a fee of ten dollars for each
item certified to him by the auditor pursuant to section forty-four of this article. In addition thereto he shall receive a commission of fifteen percent on each sale or redemption, whichever is greater. A commission received on a sale shall be based on the sale price and a commission received on a redemption shall be based on the total taxes and interest due. Such compensation shall be paid as provided in this article.

§11A-3-69. Effect of repeal.

The repeal of the provisions of sections thirty-nine, thirty-nine-a, thirty-nine-b and forty-one, article four of this chapter which was affected by the recodification of this article and article four of this chapter as the result of the enactment of chapter eighty-seven, acts of the Legislature, regular session, one thousand nine hundred ninety-four, shall not be construed to affect any right established or accrued pursuant to those provisions.

§11A-3-70. Release of title to, and taxes on, lands on which all taxes paid for ten years.

In view of the desirability of stable land titles and to encourage landowners to cause their lands to be assessed and pay the taxes thereon, it is the purpose and intent of the Legislature to release all of the state's title and claim and the authority and control of the auditor to any real estate on which all taxes have been paid for ten consecutive years and release all taxes prior to such ten-year period. If, heretofore or hereafter, all taxes due on any parcel of land for ten consecutive years have been fully paid, all title to any such land acquired by the state prior to said ten-year period or all real property tax liens which subject the lands to the authority and control of the auditor prior to said ten-year period shall be and is hereby released to the person who would be the owner thereof but for the title of the state or the real property tax liens which subject the lands to the authority and control of the auditor so released and all unpaid taxes prior to said ten-year period are declared to be fully paid.
Nothing contained in this section shall affect or be held or construed to affect in any way the right or title of a person claiming to any land by transfer as provided in section three, article XIII of the constitution of the state of West Virginia prior to the repeal of said constitutional provision in the year one thousand nine hundred ninety-two.

It is the intention of the Legislature that this section shall be both retroactive and prospective.

§11A-3-71. Deeds of deputy commissioner conveying coal, oil, gas, timber and other natural resources.

In any deed by the deputy commissioner in which said commissioner conveys or has heretofore conveyed coal, oil, gas, timber or any natural resources, as certified to him by the auditor of the state to be sold for the benefit of the school fund or as otherwise provided in this article, it shall not be necessary to recite the mining, drilling, cutting or other rights and privileges appurtenant to the same, which were a part of the deed of severance of said natural resources from the surface or other estate; and in cases where any such deeds may have heretofore been made and the rights and privileges were not recited in such deeds, the rights and privileges are hereby declared to have attached and passed by such deeds and all such conveyances are hereby ratified and confirmed.

§11A-3-72. Release of taxes and interest.

In view of the great uncertainty and confusion existing in the auditor's records of delinquent lands for the years prior to one thousand nine hundred thirty-six, due to the insufficient and inadequate reports by former school land commissioners and the doubtful status of delinquent or forfeited undivided interests, the Legislature finds that it will be impossible to provide a speedy method for disposing of delinquent and forfeited lands and for conveying to the purchasers of such lands a secure title, unless some action is taken to prevent the
certifications and sale of lands which were formerly
redeemed from or were sold by such commissioners, but
which appear on the auditor's records, as unsold and
unredeemed. Wherefore, it is the purpose and intent of
the Legislature to release all taxes, interest and charges
that may be due on any real estate in this state for the
assessment year one thousand nine hundred thirty-five
and for all years prior thereto, and all such taxes,
interest and charges are hereby declared to be fully paid.
If all the taxes due on any land for the assessment year
one thousand nine hundred thirty-six and for all years
subsequent thereto have been paid, all title to any such
land theretofore acquired by the state and any land
subject to the authority and control of the auditor shall
be and is hereby released.

The auditor, in computing the amount necessary for
redemption as provided in section thirty-eight of this
article, and in preparing the list of lands for certification
to the deputy commissioner as provided in section forty-
four of this article, shall use the assessment year one
thousand nine hundred thirty-six as the initial year for
which taxes are to be charged. He shall specify the year
in which the state acquired title, but if such year was
prior to the year one thousand nine hundred thirty-six,
shall charge no taxes for any year prior thereto, nor shall
he charge any interest, fees, penalties or costs for any
years prior to the year one thousand nine hundred
thirty-six.

Nothing contained in this section shall be held or
construed to affect in any way the right of a person
claiming title to any land by transfer, as provided in
section three, article XIII of the constitution of West
Virginia prior to the repeal of said constitutional provi-
sion in the year one thousand nine hundred ninety-two.

§11A-3-73. Release of taxes, interest and charges on land
assessed by erroneous description, etc.; misde-
scription, etc., not to result in forfeiture or
subject land to the authority and control of the
auditor.

In view of the large number of lots, parcels and tracts
of land in this state which are entered on the landbooks by descriptions, or statement of interest or estate, or name of owner, or in a taxing district, which are erroneous or deficient in various particulars and the large number of lots, parcels and tracts of land in this state, and interests and estates therein, which appear on the landbooks by entries which have been or may be considered to be irregular, erroneous, invalid or void in various particulars because of the way in which the name of the owner, the area, the lot or tract number or reference, the local description, the statement of the interest or estate and other particulars are stated, or because the entries are in the wrong taxing district; and the uncertainty which exists as to whether the payment of taxes thereon prevents the land intended to be assessed from having been forfeited for nonentry or be subject to the authority and control of the auditor pursuant to section thirty-seven of this article; and in view of the necessity for permitting the owners of such land to pay taxes thereon in safety and to relieve from and avoid double payment of taxes on the same land in such cases, it is the purpose and intent of the Legislature to, and it hereby does, release all taxes and charges that may be or become due or unpaid, or considered to be or become due or unpaid, on any such lot, parcel or tract of land in this state for each year that the taxes charged thereon under such entry have been or shall be paid, even though the entry be entirely different in description or otherwise from the land intended or be completely deficient, provided the identity of the land intended by such entry can be ascertained. All title which has been acquired by the state of West Virginia by forfeiture of land or lands which are subject to the authority and control of the auditor because of any such entry for any such year is hereby released and granted to the owner of such land in all cases where the identity of the land intended by such entry can be ascertained. No such entry heretofore or hereafter made for any such year shall constitute, or be considered to constitute, a failure of the owner of such land to have the same entered on the landbooks and to have himself charged with taxes thereon, or an omission of the same from the landbooks, or shall result in, or be
considered to have resulted in a forfeiture for nonentry of the land or be considered to subject the land to the authority and control of the auditor intended by such entry if the identity of the land intended by such entry can be ascertained. Such identity may be ascertained by any available evidence, parole or written, of record or not of record, including, but not limited to, tracing back prior years landbook entries and valuations to a transfer to the present or a former owner, notations on the landbooks and other records in the office of the assessor for the current and prior years, conveyances to and from the present and former owners, and all pertinent evidence not within the foregoing classes. The provisions of this section are remedial and shall be liberally construed for the relief of landowners.

§11A-3-74. Severability.

If any section, subsection, subdivision, subparagraph, sentence or clause of this article is adjudged to be unconstitutional or otherwise invalid, such invalidation shall not affect the validity of the remaining portions of this article and, to this end, the provisions of this article are hereby declared to be severable.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Vernon Schafer
Chairman Senate Committee

Larry C. House
Chairman House Committee

Originated in the Senate.
In effect from passage.

Dwight L. Evans
Clerk of the Senate

Donald L. Web
Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

Chuck Chwen
Speaker House of Delegates

The within ........................................ this the ........................................

day of ............................................................... , 1995.

........................................................................
Governor