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STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

SENATE BILL NO. 564

(By Senator WOOTEN, ET AL)



PASSED MARCH 11, 1995

In Effect FROY 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
2 provided is imposed is offered for recordation, the clerk
3 of the county commission shall ascertain and compute
4 the amount of the tax due thereon and shall ascertain if
5 stamps in the proper amount are attached thereto as a
6 prerequisite to acceptance of the instrument for recorda-
7 tion.

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

16 "DECLARATION OF CONSIDERATION OR VALUE

17 I hereby declare:

18 (a) The total consideration paid for the property
19 conveyed by the document to which this declaration is
20 appended is \$_____; or

21 (b) The true and actual value of the property trans-
22 ferred by the document to which this declaration is
23 appended is, to the best of my knowledge and belief
24 \$_____; or

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

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

38 Given under my hand this ____ day of _____,
39 19__.

40 Signed _____ (Indicate
41 whether grantor, grantee, or other interest in convey-
42 ance). _____ Address"

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

50 On or after the first day of July, one thousand nine
51 hundred eighty-three, the clerk shall not record any
52 document with stamps affixed unless there is tendered
53 with the document a completed and verified sales listing

54 form for the benefit and use of the state tax commis-
55 sioner. Preprinted forms for this purpose shall be pro-
56 vided each clerk by the tax commissioner.

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

89 On or before the tenth day of each month the clerk
90 shall deliver to the tax commissioner, or a person desig-
91 nated by the tax commissioner, the sales listing forms or
92 such other alternative forms as may be authorized by

93 this section for documents recorded during the preceding
94 month.

95 The sales listing form required by this section shall
96 also include a portion thereof for the information
97 required of a person claiming a lien against the real
98 property described in the document who desires to file a
99 statement pursuant to the provisions of subsection (a),
100 section three, article three, chapter eleven-a of this code.
101 Upon receipt of the form, the clerk shall, no later than
102 the end of the business day upon which it was received,
103 provide a copy of the statement to the assessor and a
104 copy thereof to the sheriff. The assessor shall note the
105 lien and any new owner of the real property indicated on
106 the sales listing form upon his landbooks. The sheriff
107 shall promptly compare the information contained in the
108 sales listing form with his records and shall:

109 (1) Provide the lienholder such notice as the lienholder
110 would thereafter otherwise be entitled to receive pursu-
111 ant to the provisions of chapter eleven-a of this code had
112 the lienholder provided the information in the form of a
113 statement as permitted by the provisions of section three,
114 article three of said chapter;

115 (2) Provide any other person listed on the sales listing
116 form such notice as the person would thereafter other-
117 wise be entitled to receive as a result of the person's
118 interest in the real property pursuant to the provisions of
119 chapter eleven-a of this code;

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

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

CHAPTER 11A. COLLECTION AND ENFORCEMENT OF

PROPERTY TAXES.**ARTICLE 1. ACCRUAL AND COLLECTION OF TAXES.****§11A-1-8. Notice of time and place for payment; mailing of tax tickets.**

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

23 The county commission of any county may order that
24 the above notice shall also be given by advertisement.
25 Such an order, once entered, shall continue in effect
26 until rescinded by the county commission. Upon entry
27 of such order, the sheriff shall, besides posting as re-
28 quired above, publish the proper notice as a Class II
29 legal advertisement in compliance with the provisions of
30 article three, chapter fifty-nine of this code, and the
31 publication area for such publication shall be the county.
32 Such notice shall be so published within fourteen
33 consecutive days next preceding the fifteenth day of July
34 or the fifteenth day of January as the case may be. For

35 every failure so to advertise, the sheriff shall forfeit one
36 hundred dollars.

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

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

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

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

70 (b) In addition to the notice of real or property taxes
71 owed, provided in this section, the county commission of

72 any county may order that the sheriff include in the
73 mailing notice of any taxes or other fees owed to the
74 county or a municipality in the county.

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

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

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

89 (d) The tax commissioner may promulgate legislative
90 rules to provide for the payment of tax liability by
91 installment payments other than those prescribed in
92 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.

1 (a) On or before the tenth day of September of each
2 year, the sheriff shall prepare a second list of delinquent
3 lands, which shall include all real estate in his county
4 remaining delinquent as of the first day of September,
5 together with a notice of sale, in form or effect as fol-
6 lows:

7 Notice is hereby given that tax liens for the following
8 described tracts or lots of land or undivided interests
9 therein in the County of _____ which are
10 delinquent for the nonpayment of taxes for the year (or
11 years) 19____, will be offered for sale by the undersigned
12 sheriff (or collector) at public auction at the front door

13 of the courthouse of the county, between the hours of ten
 14 in the morning and four in the afternoon, on the ____
 15 day of _____, 19____.

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

22 23 24 25	Name of person charged with taxes	Quantity of land	Local description	Total amount of taxes, interest and charges due to date of sale

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

31 Given under my hand this _____ day of
 32 _____, 19____.

33

34 _____
 Sheriff (or collector).

35 The sheriff shall publish the list and notice prior to the
 36 sale date fixed in the notice as a Class III-0 legal adver-
 37 tisement in compliance with the provisions of article
 38 three, chapter fifty-nine of this code, and the publication
 39 area for such publication shall be the county.

40 (b) In addition to such publication, no less than thirty
 41 days prior to the sale the sheriff shall send a notice of
 42 such delinquency and the date of sale by certified mail:

43 (1) To the last known address of each person listed in the
44 landbooks whose taxes are delinquent; (2) to each person
45 having a lien on real property upon which the taxes are
46 due as disclosed by a statement filed with the sheriff
47 pursuant to the provisions of section three of this article;
48 (3) to each other person with an interest in the property
49 or with a fiduciary relationship to a person with an
50 interest in the property who has in writing delivered to
51 the sheriff on a form prescribed by the tax commissioner
52 a request for such notice of delinquency; and (4) in the
53 case of property which includes a mineral interest but
54 does not include an interest in the surface other than an
55 interest for the purpose of developing the minerals, to
56 each person who has in writing delivered to the sheriff,
57 on a form prescribed by the tax commissioner, a request
58 for such notice which identifies the person as an owner
59 of an interest in the surface of real property that is
60 included in the boundaries of such property: *Provided*,
61 That in a case where one owner owns more than one
62 parcel of real property upon which taxes are delinquent,
63 the sheriff may, at his option, mail separate notices to
64 the owner and each lienholder for each parcel or may
65 prepare and mail to the owner and each lienholder a
66 single notice which pertains to all such delinquent
67 parcels. If he elects to mail only one notice, that notice
68 shall set forth a legally sufficient description of all
69 parcels of property on which taxes are delinquent. In no
70 event shall failure to receive the mailed notice by the
71 landowner or lienholder affect the validity of the title of
72 the property conveyed if it is conveyed pursuant to
73 section twenty-seven or fifty-nine of this article.

74 (c) (1) To cover the cost of preparing and publishing the
75 second delinquent list, a charge of seven dollars and fifty
76 cents shall be added to the taxes, interest and charges
77 already due on each item and all such charges shall be
78 stated in the list as a part of the total amount due.

79 (2) To cover the cost of preparing and mailing notice to
80 the landowner, lienholder or any other person entitled
81 thereto pursuant to this section, a charge of five dollars

82 per addressee shall be added to the taxes, interest and
83 charges already due on each item and all such charges
84 shall be stated in the list as a part of the total amount
85 due.

86 (d) Any person whose taxes were delinquent on the
87 first day of September may have his name removed from
88 the delinquent list prior to the time the same is delivered
89 to the newspapers for publication by paying to the
90 sheriff the full amount of taxes and costs owed by such
91 person at the date of such redemption. In such case, the
92 sheriff shall include but three dollars of the costs pro-
93 vided in this section in making such redemption. Costs
94 collected by the sheriff hereunder which are not ex-
95 pended for publication and mailing shall be paid into the
96 general county fund.

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

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

9 Such statement shall be sufficient if it is filed at the
10 time the document creating the lien is filed and when
11 said lien is released on a form and in a manner to be
12 prescribed from time to time by the tax commissioner,
13 which form shall include the name of the person charged
14 with taxes for the real property; the tax map and parcel
15 number of the property; the assessor's account number
16 of the property; a description of the interest claimed; and
17 the address to which notice is to be sent: *Provided*, That
18 it shall be sufficient for purposes of this section if the
19 information required by this section is provided on a
20 sales listing form prescribed in section six, article
21 twenty-two, chapter eleven of this code and filed with
22 the clerk of the county commission at the time of the

23 filing of the document. The statement may be amended
24 at any time by the person claiming the lien, upon such
25 amended form and in such manner as may be prescribed
26 by the tax commissioner: *Provided, however,* That in
27 counties with a population greater than two hundred
28 thousand any person claiming liens against more than
29 fifty parcels of real estate may file such statement
30 electronically in a similar format as before described
31 designed by the tax commissioner.

32 (b) At least once a year prior to the first day of July,
33 the sheriff shall publish a notice that any person claim-
34 ing a lien against taxable real property must file the
35 statement required by this section or such person will be
36 deemed to have waived any right to notice provided by
37 the preceding section. The notice shall be published as
38 a Class I legal advertisement in compliance with the
39 provisions of article three, chapter fifty-nine of this
40 code, and the publication area for such publication shall
41 be the county in which such land is located.

§11A-3-5. Sale by sheriff; immunity; penalty; mandamus.

1 (a) The tax lien on each unredeemed tract or lot, or
2 each unredeemed part thereof or undivided interest
3 therein shall be sold by the sheriff, in the same order as
4 set forth in the list and notice prescribed in section two
5 of this article, at public auction to the highest bidder,
6 between the hours of ten in the morning and four in the
7 afternoon on any business working day after the four-
8 teenth day of October and before the twenty-third day of
9 November: *Provided,* That no tax lien for such unre-
10 deemed tract or lot or undivided interest therein shall be
11 sold upon any bid or for any sum less than the total
12 amount of taxes, interest and charges then due: *Pro-*
13 *vided, however,* That at any such sale, the tax lien for
14 each unredeemed tract or lot, or undivided interest
15 therein, shall be offered for sale and sold for the entirety
16 of such tract or lot or undivided interest therein as the
17 same is described and constituted as a unit or entity in
18 the list and notice prescribed in section two of this

19 article. If the sale shall not be completed on the day
20 designated in the notice for the holding of such sale, it
21 shall be continued from day to day between the same
22 hours until disposition shall have been made of all the
23 land. The payment for any tax lien purchased at a sale
24 shall be made by check or money order payable to the
25 sheriff of the county and delivered before the close of
26 business on the day of the sale.

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

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

1 (a) The sheriff shall account for the proceeds of all
2 sales and redemptions included in such list in the same
3 way he accounts for other taxes collected by him, except
4 that if the purchase money paid for any property sold is
5 in excess of the amount of taxes, interest and charges
6 due thereon, the surplus shall be deposited in a special
7 county fund to be known and designated as the "sale of
8 tax lien surplus fund". Where there is a redemption
9 after the sale, the sheriff shall also deposit into said fund
10 the amount of taxes, interest and charges due on the date
11 of the sale, plus the interest at the rate of one percent per
12 month from the date of sale to the date of redemption,
13 described in subdivision (2), subsection (b), section
14 twenty-four of this article. Such surpluses shall be
15 disposed of as follows:

16 (1) In any case where the property was redeemed, such
17 surplus shall be distributed to the person or persons who

18 purchased the tax lien thereon, or the heirs, devisees,
19 legatees, executors, administrators, successors or assigns
20 thereof.

21 (2) If the purchaser, his heirs, devisees, legatees,
22 executors, administrators, successors or assigns cannot
23 be found within two years from and after the date of
24 redemption, all claims to such surplus shall be barred
25 and such surplus shall be distributed by the sheriff in the
26 manner provided by law for the distribution of property
27 taxes collected by him.

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

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

1 Within one month after completion of the sale, the
2 sheriff shall prepare and publish a list of all the sales
3 and certifications made by him, in form or effect as
4 follows, which list shall be published as a Class II-0 legal
5 advertisement in compliance with the provisions of
6 article three, chapter fifty-nine of this code, and the
7 publication area for such publication shall be the county.

8 List of tax liens on real estate sold in the county of
9 _____, in the
10 month (or months) of _____,
11 19____, for nonpayment of taxes thereon for the year (or
12 years) 19____, and purchased by individuals or certified
13 to the auditor of the state of West Virginia:

14 15 16 17	Name of person charged with taxes	Local descrip- tion of lands	Quantity of land charged	Quantity of land for which tax lien is sold	Name of purchaser	Whole amount paid by purchaser

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

21 Given under my hand this _____ day of
22 _____, 19____.

23

24

Sheriff

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

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

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

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

1 (a) No lien upon real property evidenced by a tax
2 certificate of sale issued by a sheriff on account of any
3 delinquent property taxes shall remain a lien thereon for
4 a period longer than eighteen months after the original
5 issuance thereof.

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

12 (c) Whenever a lien evidenced by a tax certificate of
13 sale has expired by reason of the provisions of this
14 section, the county clerk shall immediately issue and

15 record a certificate of cancellation describing the real
16 estate included in the certificate of purchase or tax
17 certificate and giving the date of cancellation and he
18 shall also make proper entries in his records. He shall
19 also present a copy of every such certificate of cancella-
20 tion to the sheriff who shall enter the same in his records
21 and such certificate and the record thereof shall be
22 prima facie evidence of the cancellation of the certificate
23 of sale and of the release of the lien of such certificate on
24 the lands therein described. Failure to record such
25 certificate of cancellation shall not extend the lien
26 evidenced by the certificate of sale. The sheriff and
27 county clerk shall not be entitled to any fees for the
28 issuing of such certificate of cancellation nor for the
29 entries in their books made under the provisions of this
30 subsection.

§11A-3-21. Notice to redeem.

1 Whenever the provisions of section nineteen of this
2 article have been complied with, the clerk of the county
3 commission shall thereupon prepare a notice in form or
4 effect as follows:

5 To _____.

6 You will take notice that _____, the purchaser (or
7 _____, the assignee, heir or devisee of
8 _____, the purchaser) of the tax lien(s) on the
9 following real estate, _____, (here describe
10 the real estate for which the tax lien(s) thereon were
11 sold) located in _____, (here name the city, town
12 or village in which the real estate is situated or, if not
13 within a city, town or village, give the district and a
14 general description) which was returned delinquent in
15 the name of _____, and for which the tax
16 lien(s) thereon was sold by the sheriff of _____
17 County at the sale for delinquent taxes made on the
18 _____ day of _____, 19____, has
19 requested that you be notified that a deed for such real
20 estate will be made to him on or after the first day of
21 April, 19____, as provided by law, unless before that day

22 you redeem such real estate. The amount you will have
23 to pay to redeem on the last day, March thirty-first, will
24 be as follows:

25 Amount equal to the taxes, interest, and charges due
26 on the date of sale, with interest to March 31, 19__
27\$_____

28 Amount of taxes paid on the property, since the sale,
29 with interest to March 31, 19__
30 \$_____

31 Amount paid for title examination and preparation of
32 list of those to be served, and for preparation and service
33 of the notice with interest to March 31, 19__
34 \$_____

35 Amount paid for other statutory costs
36 (describe)_____

37 \$_____

38 Total \$_____

39 You may redeem at any time before March thirty-first,
40 nineteen hundred _____, by paying the above
41 total less any unearned interest.

42 Given under my hand this _____ day of
43 _____, 19____.

44

45 _____
46 Clerk of the County Commission
47 of _____ County,
48 State of West Virginia

48 The clerk for his service in preparing the notice shall
49 receive a fee of five dollars for the original and one
50 dollar for each copy required. Any costs which must be
51 expended in addition thereto for publication, or service
52 of such notice in the manner provided for serving process
53 commencing a civil action, or for service of process by
54 certified mail, shall be charged by the clerk. All costs
55 provided by this section shall be included as redemption

56 costs and included in the notice described herein.

§11A-3-22. Service of notice.

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

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

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

16 If the address of any person entitled to notice, whether
17 a resident or nonresident of this state, is unknown to the
18 purchaser and cannot be discovered by due diligence on
19 the part of the purchaser, the notice shall be served by
20 publication as a Class III-0 legal advertisement in
21 compliance with the provisions of article three, chapter
22 fifty-nine of this code, and the publication area for such
23 publication shall be the county in which such real estate
24 is located. If service by publication is necessary, publi-
25 cation shall be commenced when personal service is
26 required as set forth above, and a copy of the notice shall
27 at the same time be sent by certified mail, return receipt
28 requested, to the last known address of the person to be
29 served. The return of service of such notice and the
30 affidavit of publication, if any, shall be in the manner
31 provided for process generally and shall be filed and
32 preserved by the clerk in his office, together with any
33 return receipts for notices sent by certified mail.

**§11A-3-23. Redemption from purchase; receipt; list of re-
demptions; lien; lien of person redeeming**

interest of another; record.

1 (a) After the sale of any tax lien on any real estate
2 pursuant to section five of this article, the owner of, or
3 any other person who was entitled to pay the taxes on,
4 any real estate for which a tax lien thereon was pur-
5 chased by an individual may redeem at any time before
6 a tax deed is issued therefor. In order to redeem, he
7 must pay to the clerk of the county commission the
8 following amounts: (1) An amount equal to the taxes,
9 interest and charges due on the date of the sale, with
10 interest thereon at the rate of one percent per month
11 from the date of sale; (2) all other taxes thereon, which
12 have since been paid by the purchaser, his heirs or
13 assigns, with interest at the rate of one percent per
14 month from the date of payment; (3) such additional
15 expenses as may have been incurred in preparing the list
16 of those to be served with notice to redeem and any title
17 examination incident thereto, with interest at the rate of
18 one percent per month from the date of payment, but the
19 amount he shall be required to pay, excluding said
20 interest, for such expenses incurred for the preparation
21 of the list of those to be served with notice to redeem
22 required by section nineteen of this article and any title
23 examination incident thereto, shall not exceed two
24 hundred dollars; and (4) all additional statutory costs
25 paid by the purchaser. Where the clerk has not received
26 from the purchaser satisfactory proof of the expenses
27 incurred in preparing the notice to redeem, and any
28 examination of title incident thereto, in the form of
29 receipts or other evidence thereof, the person redeeming
30 shall pay the clerk the sum of two hundred dollars plus
31 interest thereon at the rate of one percent per month
32 from the date of the sale for disposition by the sheriff
33 pursuant to the provisions of sections ten, twenty-four,
34 twenty-five and thirty-two of this article.

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

37 (b) Any person who, by reason of the fact that no

38 provision is made for partial redemption of the tax lien
39 on real estate purchased by an individual, is compelled
40 in order to protect himself to redeem the tax lien on all
41 of such real estate when it belongs, in whole or in part,
42 to some other person, shall have a lien on the interest of
43 such other person for the amount paid to redeem such
44 interest. He shall lose his right to the lien, however,
45 unless within thirty days after payment he shall file with
46 the clerk of the county commission his claim in writing
47 against the owner of such interest, together with the
48 receipt provided for in this section. The clerk shall
49 docket the claim on the judgment lien docket in his
50 office and properly index the same. Such lien may be
51 enforced as other judgment liens are enforced.

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

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

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

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

1 (a) Where the land has been redeemed in the manner
2 set forth in section twenty-three of this article, and the
3 clerk has delivered the redemption money to the sheriff
4 pursuant to section twenty-four of this article, the
5 sheriff shall, upon delivery of the sum necessary to
6 redeem, promptly notify the purchaser, his heirs or
7 assigns, by mail, of the fact of the redemption and pay to
8 the purchaser, his heirs or assigns the following

9 amounts: (1) From the sale of tax lien surplus fund
10 provided by section ten of this article: (A) The surplus of
11 money paid in excess of the amount of the taxes, interest
12 and charges due and paid to the sheriff at the sale; and
13 (B) the amount of taxes, interest and charges due on the
14 date of the sale, plus the interest at the rate of one
15 percent per month from the date of sale to the date of
16 redemption; (2) all other taxes thereon, which have since
17 been paid by the purchaser, his heirs or assigns, with
18 interest at the rate of one percent per month from the
19 date of payment; (3) such additional expenses as may
20 have been incurred in preparing the list of those to be
21 served with notice to redeem and any title examination
22 incident thereto, with interest at the rate of one percent
23 per month from the date of payment, but the amount
24 which shall be paid, excluding said interest, for such
25 expenses incurred for the preparation of the list of those
26 to be served with notice to redeem required by section
27 nineteen of this article, and any title examination
28 incident thereto, shall not exceed two hundred dollars;
29 and (4) all additional statutory costs paid by the pur-
30 chaser.

31 (b) (1) The notice shall include:

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

34 (B) An itemized statement of the redemption money to
35 which the purchaser is entitled pursuant to the provi-
36 sions of this section; and

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

44 (2) Subject to the limitations of this section, the
45 purchaser is entitled to recover any expenses incurred in

46 preparing the list of those to be served with notice to
47 redeem and any title examination incident thereto from
48 the date of the sale to the date of the redemption.

49 (c) Where, pursuant to section twenty-three of this
50 article, the clerk has not received from the purchaser
51 satisfactory proof of the expenses incurred in preparing
52 the list of those to be served with notice to redeem, and
53 any title examination incident thereto, in the form of
54 receipts or other evidence thereof, and therefore received
55 from the purchaser as required by said section and
56 delivered to the sheriff the sum of two hundred dollars
57 plus interest thereon at the rate of one percent per month
58 from the date of the sale to the date of redemption, and
59 the sheriff has not received from the purchaser such
60 satisfactory proof of such expenses within thirty days
61 from the date of notification, the sheriff shall refund
62 such amount to the person redeeming and the purchaser
63 is barred from any claim thereto. Where pursuant to
64 said section, the clerk has received from the purchaser
65 and therefore delivered to the sheriff said sum of two
66 hundred dollars plus interest thereon at the rate of one
67 percent per month from the date of the sale to the date of
68 redemption, and the purchaser provides the sheriff
69 within thirty days from the date of notification such
70 satisfactory proof of such expenses, and the amount of
71 such expenses is less than the amount paid by the person
72 redeeming, the sheriff shall refund the difference to the
73 person redeeming.

§11A-3-27. Deed to purchaser; record.

1 If the real estate described in the notice is not re-
2 deemed within the time specified therein, but in no event
3 prior to the first day of April of the second year follow-
4 ing the sheriff's sale, the person entitled thereto shall
5 make and deliver to the clerk of the county commission
6 at any time thereafter, subject to the provisions of
7 section eighteen of this article, a quitclaim deed for such
8 real estate in form or effect as follows:

9 This deed made this _____ day of _____,

10 19____, by and between _____, clerk of the
11 county commission of _____ County,
12 West Virginia, (or by and between _____, a
13 commissioner appointed by the Circuit Court of
14 _____ County, West Virginia) grantor, and
15 _____, purchaser, (or _____, heir,
16 devisee or assignee of _____, pur-
17 chaser), grantee, witnesseth, that:

18 Whereas, In pursuance of the statutes in such case
19 made and provided, _____, Sheriff of
20 _____ County, (or _____, deputy for
21 _____, Sheriff of _____ County), (or
22 _____, collector of _____ County), did,
23 in the month of _____, in the year 19____, sell the
24 tax lien(s) on real estate, hereinafter mentioned and
25 described, for the taxes delinquent thereon for the year
26 (or years) 19____, and _____, (here insert name
27 of purchaser) for the sum of \$_____, that being the
28 amount of purchase money paid to the sheriff, did
29 become the purchaser of the tax lien(s) on such real
30 estate (or on _____ acres, part of the tract or land, or
31 on an undivided _____ interest in such real
32 estate) which was returned delinquent in the name of
33 _____; and

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

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

41 Now, therefore, the grantor, for and in consideration of
42 the premises and in pursuance of the statutes, doth grant
43 unto _____, grantee, his heirs and assigns
44 forever, the real estate on which the tax lien(s) so pur-
45 chased existed, situate in the county of
46 _____, bounded and described as
47 follows: _____

48 Witness the following signature: _____

49 Clerk of the County Commission of _____
50 County.

51 Except when ordered to do so, as provided in section
52 twenty-eight of this article, no clerk of the county
53 commission shall execute and deliver such a deed more
54 than thirty days after the person entitled to the deed
55 delivers the same and requests the execution thereof.
56 Upon the clerk's determination that the deed presented
57 substantially complies with the requirements of this
58 section, the clerk shall execute the deed and acknowl-
59 edge the same, record the deed in the clerk's office and
60 deliver the original thereof to the purchaser.

61 For the execution of the deed and for all the recording
62 required by this section, a fee of seven dollars and fifty
63 cents and the recording expenses shall be charged, to be
64 paid by the grantee upon delivery of the deed. The deed,
65 when duly acknowledged or proven, shall be recorded by
66 the clerk of the county commission in the deed book in
67 his office, together with assignment from the purchaser,
68 if one was made, the notice to redeem, the return of
69 service of such notice, the affidavit of publication, if the
70 notice was served by publication, and any return receipts
71 for notices sent by certified mail.

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

1 If the clerk of the county commission fails or refuses to
2 prepare and serve the notice to redeem as required in
3 sections twenty-one and twenty-two of this article, the
4 person requesting the notice may, at any time within two
5 weeks after discovery of such failure or refusal, but in no
6 event later than sixty days following the date the person
7 requested that notice be prepared and served, apply by
8 petition to the circuit court of the county for an order
9 compelling the clerk to prepare and serve the notice or
10 appointing a commissioner to do so. If the person
11 requesting the notice fails to make such application
12 within the time allowed, he shall lose his right to the

13 notice, but his rights against the clerk under the provi-
14 sions of section sixty-seven of this article shall not be
15 affected. Notice given pursuant to an order of the court
16 or judge shall be as valid for all purposes as if given
17 within the time required by section twenty-two of this
18 article.

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

34 Ten days' written notice of every such application must
35 be given to the clerk. If, upon the hearing of such
36 application, the court or judge is of the opinion that the
37 applicant is not entitled to the notice or deed requested,
38 the petition shall be dismissed at his costs; but if the
39 court or judge is of the opinion that he is entitled to such
40 notice or deed, then, upon his deposit with the clerk of
41 the circuit court of a sum sufficient to cover the costs of
42 preparing and serving the notice, unless such a deposit
43 has already been made with the clerk of the county
44 commission, an order shall be made by the court or judge
45 directing the clerk to prepare and serve the notice or
46 execute the deed, or appointing a commissioner for the
47 purpose, as the court or judge shall determine. If it
48 appears to the court or judge that the failure or refusal
49 of the clerk was without reasonable cause, judgment
50 shall be given against him for the costs of the proceed-
51 ings; otherwise the costs shall be paid by the applicant.

52 Any commissioner appointed under the provisions of
53 this section shall be subject to the same liabilities as are
54 provided for the clerk. For the preparation of the notice
55 to redeem, he shall be entitled to the same fee as is
56 provided for the clerk. For the execution of the deed, he
57 shall also be entitled to a fee of seven dollars and fifty
58 cents and the recording expenses, to be paid by the
59 grantee upon delivery of the deed.

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

1 Whenever one purchaser at the tax sale has purchased
2 tax liens on two or more adjoining pieces of real estate
3 within the same tax district, or undivided interests
4 therein, charged with taxes for the same year, or years,
5 he, his heirs or assigns may request the clerk of the
6 county commission to execute a separate deed for each
7 adjoining piece of real estate within the same tax dis-
8 trict, or undivided interest therein, or separate deeds for
9 some and one deed for the remainder, or one deed for all,
10 as he or they may prefer. Every deed for two or more
11 pieces of adjoining real estate within the same tax
12 district, or undivided interests therein, shall describe
13 each piece of real estate and each undivided interest
14 separately.

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

1 (a) Each tract or lot certified to the deputy commis-
2 sioner pursuant to the preceding section shall be sold by
3 the deputy commissioner at public auction at the court-
4 house of the county to the highest bidder between the
5 hours of ten in the morning and four in the afternoon on
6 any business working day within one hundred twenty
7 days after the auditor has certified the lands to the
8 deputy commissioner as required by the preceding
9 section. The payment for any tract or lot purchased at a
10 sale shall be made by check or money order payable to
11 the sheriff of the county and delivered before the close of
12 business on the day of sale. No part or interest in any
13 tract or lot subject to such sale, or any part thereof of

14 interest therein, that is less than the entirety of such
15 unredeemed tract, lot or interest, as the same is de-
16 scribed and constituted as a unit or entity in said list,
17 shall be offered for sale or sold at such sale. If the sale
18 shall not be completed on the first day of the sale, it shall
19 be continued from day to day between the same hours
20 until all the land shall have been offered for sale.

21 (b) A private, nonprofit, charitable corporation,
22 incorporated in this state, which has been certified as a
23 nonprofit corporation pursuant to the provisions of
24 Section 501(c)(3) of the federal Internal Revenue Code, as
25 amended, which has as its principal purpose the con-
26 struction of housing or other public facilities and which
27 notifies the deputy commissioner of an intention to bid
28 and subsequently submits a bid that is not more than
29 five percent lower than the highest bid submitted by any
30 person or organization which is not a private, nonprofit,
31 charitable corporation as defined in this subsection,
32 shall be sold the property offered for sale by the deputy
33 commissioner pursuant to the provisions of this section
34 at the public auction as opposed to the highest bidder.

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

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

1 Once a week for three consecutive weeks prior to the
2 auction required in the preceding section, the deputy
3 commissioner shall publish notice of the auction as a
4 Class III-0 legal advertisement in compliance with the
5 provisions of article three, chapter fifty-nine of this
6 code, and the publication area for such publication shall
7 be the county.

8 The notice shall be in form or effect as follows:

9 Notice is hereby given that the following described
10 tracts or lots of land in the County of _____, have
11 been certified by the Auditor of the State of West
12 Virginia to _____, Deputy Commissioner of
13 Delinquent and Nonentered Lands of said County, for
14 sale at public auction. The lands will be offered for sale
15 by the undersigned deputy commissioner at public
16 auction in (specify location) the courthouse of _____
17 County between the hours of ten in the morning and four
18 in the afternoon, on the _____ day of _____,
19 19____.

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

30 (here insert description of lands to be sold)

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

38 Given under my hand this _____ day of
39 _____, 19____.
40 Deputy Commissioner of Delinquent and Nonentered
41 Lands of _____ County.

42 The description of lands required in the notice shall be
43 in the same form as the list certifying said lands to the
44 deputy commissioner for sale. If the deputy commis-
45 sioner is required to auction lands certified to him in any

46 previous years, pursuant to section forty-eight of this
47 article, he shall include such lands in the notice, with
48 reference to the year of certification and the item
49 number of the tract or interest.

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

§11A-3-47. Redemption prior to sale.

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

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

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

9 Memorandum of real estate sold in the county of
10 _____ on this _____ day of _____, 19____, by
11 _____, the deputy commissioner of delinquent
12 and nonentered lands of said county.

13 Except for the heading, the auditor shall prescribe the
14 form of the receipt.

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

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

13 As soon as possible after receiving the report, the
14 auditor shall determine whether the sale is in the best
15 interest of the state and shall either approve or disap-
16 prove the sale. The auditor shall then note such approval
17 or disapproval and, if disapproved, the reasons therefor,
18 on the report, and return a copy to the deputy commis-
19 sioner. The original shall be retained by the auditor. The
20 deputy commissioner shall provide a copy of the report
21 approved or disapproved by the auditor to the sheriff
22 and to the county clerk.

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

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

1 (a) Within forty-five days following the approval of the

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

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

§11A-3-54. Notice to redeem.

1 Whenever the provisions of section fifty-two of this
2 article have been complied with, the deputy commis-
3 sioner shall thereupon prepare a notice in form or effect
4 as follows:

5 To _____

6 You will take notice that _____, the
7 purchaser (or _____, the assignee, heir or devisee
8 of _____, the purchaser) of the following real
9 estate, _____, (here describe the real estate
10 sold) located in _____, (here name the city,
11 town or village in which the real estate is situated or, if
12 not within a city, town or village, give the district and a
13 general description) which was _____ (here
14 put whether the property was returned delinquent or
15 nonentered) in the name of _____, and was

16 sold by the deputy commissioner of delinquent and
17 nonentered lands of _____ County at the sale
18 for delinquent taxes (or nonentry) on the _____ day of
19 _____, 19____, has requested that you be
20 notified that a deed for such real estate will be made to
21 him on or after the _____ day of _____, 19____,
22 as provided by law, unless before that day you redeem
23 such real estate. The amount you will have to pay to
24 redeem on the _____ day of _____, 19____
25 will be as follows:

26 Amount equal to the taxes, interest and charges due on
27 the date of sale, with interest to _____
28\$_____

29 Amount of taxes paid on the property, since the sale,
30 with interest to _____ \$_____

31 Amount paid for title examination and preparation of
32 list of those to be served, and for preparation and service
33 of the notice with interest to _____ \$_____

34 Amount paid for other statutory
35 costs(describe) _____
36\$_____

37 Total..... \$_____

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

40 Given under my hand this _____ day of
41 _____, 19____.

42 _____

43 Deputy Commissioner of Delinquent
44 and Nonentered Lands

45 _____ County,

46 State of West Virginia

47 The deputy commissioner for his service in preparing
48 the notice shall receive a fee of ten dollars for the

49 original and two dollars for each copy required. Any
50 costs which must be expended in addition thereto for
51 publication, or service of such notice in the manner
52 provided for serving process commencing a civil action,
53 or for service of process by certified mail, shall be
54 charged by the deputy commissioner. All costs provided
55 by this section shall be included as redemption costs and
56 included in the notice described herein.

§11A-3-55. Service of notice.

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

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

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

19 If the address of any person entitled to notice, whether
20 a resident or nonresident of this state, is unknown to the
21 purchaser and cannot be discovered by due diligence on
22 the part of the purchaser, the notice shall be served by
23 publication as a Class III-0 legal advertisement in
24 compliance with the provisions of article three, chapter
25 fifty-nine of this code, and the publication area for such
26 publication shall be the county in which such real estate
27 is located. If service by publication is necessary, publi-
28 cation shall be commenced when personal service is

29 required as set forth above, and a copy of the notice shall
30 at the same time be sent by certified mail, return receipt
31 requested, to the last known address of the person to be
32 served. The return of service of such notice, and the
33 affidavit of publication, if any, shall be in the manner
34 provided for process generally and shall be filed and
35 preserved by the auditor in his office, together with any
36 return receipts for notices sent by certified mail.

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

1 (a) After the sale of any tax lien on any real estate
2 pursuant to section forty-five or forty-eight of this
3 article, the owner of, or any other person who was
4 entitled to pay the taxes on, any real estate for which a
5 tax lien thereon was purchased by an individual, may
6 redeem at any time before a tax deed is issued therefor.
7 In order to redeem, he must pay to the deputy commis-
8 sioner the following amounts: (1) An amount equal to
9 the taxes, interest and charges due on the date of the
10 sale, with interest thereon at the rate of one percent per
11 month from the date of sale; (2) all other taxes thereon,
12 which have since been paid by the purchaser, his heirs or
13 assigns, with interest at the rate of one percent per
14 month from the date of payment; (3) such additional
15 expenses as may have been incurred in preparing the list
16 of those to be served with notice to redeem, and any title
17 examination incident thereto, with interest at the rate of
18 one percent per month from the date of payment, but the
19 amount he shall be required to pay, excluding said
20 interest, for such expenses incurred for the preparation
21 of the list of those to be served with notice to redeem
22 required by section fifty-two of this article, and any title
23 examination incident thereto, shall not exceed two
24 hundred dollars; (4) all additional statutory costs paid by
25 the purchaser; and (5) the deputy commissioner's fee and
26 commission as provided by section sixty-six of this
27 article. Where the deputy commissioner has not received
28 from the purchaser satisfactory proof of the expenses

29 incurred in preparing the notice to redeem, and any
30 examination of title incident thereto, in the form of
31 receipts or other evidence thereof, the person redeeming
32 shall pay the deputy commissioner the sum of two
33 hundred dollars plus interest thereon at the rate of one
34 percent per month from the date of the sale for disposi-
35 tion pursuant to the provisions of sections fifty-seven,
36 fifty-eight and sixty-four of this article. Upon payment
37 to the deputy commissioner of those and any other
38 unpaid statutory charges required by this article, and of
39 any unpaid expenses incurred by the sheriff, the auditor
40 and the deputy commissioner in the exercise of their
41 duties pursuant to this article, the deputy commissioner
42 shall prepare an original and five copies of the receipt
43 for the payment and shall note on said receipts that the
44 property has been redeemed. The original of such receipt
45 shall be given to the person redeeming. The deputy
46 commissioner shall retain a copy of the receipt and
47 forward one copy each to the sheriff, assessor, the
48 auditor and the clerk of the county commission. The
49 clerk shall endorse on the receipt the fact and time of
50 such filing and note the fact of redemption on his record
51 of delinquent lands.

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

§11A-3-57. Notice of redemption to purchaser; moneys received by sheriff.

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

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

§11A-3-58. Distribution to purchaser.

1 (a) Where the land has been redeemed in the manner
2 set forth in section fifty-six of this article, and the
3 deputy commissioner has delivered the redemption
4 money to the sheriff pursuant to section fifty-seven of
5 this article, the sheriff shall, upon delivery of the sum
6 necessary to redeem, promptly notify the purchaser, his
7 heirs or assigns, by mail, of the redemption and pay to
8 the purchaser, his heirs or assigns, the following
9 amounts: (1) The amount paid to the deputy commis-
10 sioner at the sale; (2) all other taxes thereon, which have
11 since been paid by the purchaser, his heirs or assigns,
12 with interest at the rate of one percent per month from
13 the date of payment; (3) such additional expenses as may
14 have been incurred in preparing the list of those to be
15 served with notice to redeem, and any title examination
16 incident thereto, with interest at the rate of one percent
17 per month from the date of payment, but the amount
18 which shall be paid, excluding said interest, for such
19 expenses incurred for the preparation of the list of those
20 to be served with notice to redeem required by section
21 fifty-two of this article, and any title examination
22 incident thereto, shall not exceed two hundred dollars;
23 and (4) all additional statutory costs paid by the pur-
24 chaser.

25 (b) (1) The notice shall include:

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

28 (B) An itemized statement of the redemption money to
29 which the purchaser is entitled pursuant to the provi-
30 sions of this section; and

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

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

43 (c) Where, pursuant to section fifty-six of this article,
44 the deputy commissioner has not received from the
45 purchaser satisfactory proof of the expenses incurred in
46 preparing the notice to redeem, and any title examina-
47 tion incident thereto, in the form of receipts or other
48 evidence thereof, and therefore received from the
49 purchaser as required by said section and delivered to
50 the sheriff the sum of two hundred dollars plus interest
51 thereon at the rate of one percent per month from the
52 date of the sale to the date of redemption, and the sheriff
53 has not received from the purchaser such satisfactory
54 proof of such expenses within thirty days from the date
55 of notification, the sheriff shall refund such amount to
56 the person redeeming and the purchaser is barred from
57 any claim thereto. Where pursuant to section fifty-six of
58 this article, the deputy commissioner has received from
59 the purchaser and therefore delivered to the sheriff said
60 sum of two hundred dollars plus interest thereon at the
61 rate of one percent per month from the date of the sale to

62 the date of redemption, and the purchaser provides the
63 sheriff within thirty days from the date of notification
64 such satisfactory proof of such expenses, and the amount
65 of such expenses is less than the amount paid by the
66 person redeeming, the sheriff shall refund the difference
67 to the person redeeming.

§11A-3-59. Deed to purchaser; record.

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

12 This deed, made this _____ day of _____,
13 19____, by and between _____, deputy commis-
14 sioner of delinquent and nonentered lands of
15 _____ County, West Virginia, grantor, and
16 _____, purchaser (or _____
17 heir, devisee, assignee of _____,
18 purchaser) grantee, witnesseth, that

19 Whereas, in pursuance of the statutes in such case
20 made and provided, _____, deputy
21 commissioner of delinquent and nonentered lands of
22 _____ County, did, on the _____ day of
23 _____, 19____, sell the real estate hereinafter
24 mentioned and described for the taxes delinquent
25 thereon for the year(s) 19____, (or as nonentered land
26 for failure of the owner thereof to have the land entered
27 on the landbooks for the years _____, or as prop-
28 erty escheated to the State of West Virginia, or as waste
29 or unappropriated property) for the sum of
30 \$_____, that being the amount of pur-
31 chase money paid to the deputy commissioner, and

32 _____ (here insert name of purchaser) did become
33 the purchaser of such real estate, which was returned
34 delinquent in the name of _____ (or
35 nonentered in the name of, or escheated from the estate
36 of, or which was discovered as waste or unappropriated
37 property); and

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

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

44 Now, therefore, the grantor for and in consideration of
45 the premises recited herein, and pursuant to the provi-
46 sions of Article 3, Chapter 11A of the West Virginia
47 Code, doth grant unto _____, grantee, his
48 heirs and assigns forever, the real estate so purchased,
49 situate in the County of _____, bounded and
50 described as follows: _____
51 (here insert description of property)

52 Witness the following signature:

53 _____

54 Deputy Commissioner of Delinquent and Nonentered
55 Lands of _____ County.

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

60 For the preparation and execution of the deed and for
61 all the recording required by this section, a fee of fifty
62 dollars and the recording expenses shall be charged, to
63 be paid by the grantee upon delivery of the deed. The
64 deed, when duly acknowledged or proven, shall be
65 recorded by the clerk of the county commission in the
66 deed book in his office, together with the assignment
67 from the purchaser, if one was made, the notice to

68 redeem, the return of service of such notice, the affidavit
69 of publication, if the notice was served by publication,
70 and any return receipts for notices sent by certified mail.

§11A-3-60. Compelling service of notice or execution of deed.

1 If the deputy commissioner fails or refuses to prepare
2 and serve the notice to redeem as required in sections
3 fifty-four and fifty-five of this article, the person re-
4 questing the notice may, at any time within two weeks
5 after discovery of such failure or refusal, but in no event
6 later than sixty days following the date the person
7 requested that notice be prepared and served, apply by
8 petition to the circuit court of the county for an order
9 compelling the deputy commissioner to prepare and
10 serve the notice or appointing a commissioner to do so.
11 If the person requesting the notice fails to make such
12 application within the time allowed, he shall lose his
13 right to the notice, but his rights against the deputy
14 commissioner under the provisions of section sixty-seven
15 of this article shall not be affected. Notice given pursu-
16 ant to an order of the court or judge shall be valid for all
17 purposes as if given within the time required by section
18 fifty-five of this article.

19 If the deputy commissioner fails or refuses to prepare
20 and execute the deed as required in the preceding
21 section, the person requesting the deed may, at any time
22 after such failure or refusal, but not more than six
23 months after his right to the deed accrued, apply by
24 petition to the circuit court of the county for an order
25 compelling the deputy commissioner to prepare and
26 execute the deed or appointing a commissioner to do so.
27 If the person requesting the deed fails to make such
28 application within the time allowed, he shall lose his
29 right to the deed, but his rights against deputy commis-
30 sioner under the provisions of section sixty-seven of this
31 article shall remain unaffected. Any deed executed
32 pursuant to an order of the court shall have the same
33 force and effect as if executed and delivered by the
34 deputy commissioner within the time specified in the

35 preceding section.

36 Ten days' written notice of every such application must
37 be given to the deputy commissioner. If, upon the
38 hearing of such application, the court is of the opinion
39 that the applicant is not entitled to the notice or deed
40 requested, the petition shall be dismissed at his costs;
41 but, if the court is of the opinion that he is entitled to
42 such notice or deed, then, upon his deposit with the clerk
43 of the circuit court of a sum sufficient to cover the costs
44 of preparing and serving the notice, unless such a deposit
45 has already been made with the deputy commissioner, an
46 order shall be made by the court directing the deputy
47 commissioner to prepare and serve the notice or execute
48 the deed, or appointing a commissioner for the purpose,
49 as the court or judge shall determine. The order shall be
50 filed with the clerk of the circuit court and entered in the
51 civil order book. If it appears to the court that the
52 failure or refusal of the deputy commissioner was
53 without reasonable cause, judgment shall be given
54 against him for the costs of the proceedings, otherwise
55 the costs shall be paid by the applicant.

56 Any commissioner appointed under the provisions of
57 this section shall be subject to the same liabilities as the
58 deputy commissioner. For the preparation of the notice
59 to redeem, he shall be entitled to the same fee as is
60 provided for the deputy commissioner. For the prepara-
61 tion and execution of the deed, he shall also be entitled
62 to a fee of fifty dollars and recording expenses to be paid
63 by the grantee upon delivery of the deed.

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

1 Whenever one purchaser at the tax sale has purchased
2 tax liens on two or more adjoining pieces of real estate
3 within the same tax district, or undivided interests
4 therein, charged with taxes for the same year, or years,
5 he, his heirs or assigns, may request the deputy commis-
6 sioner to execute a separate deed for each adjoining
7 piece of real estate within the same tax district, or

8 undivided interest therein, or separate deeds for some
9 and one deed for the remainder, or one deed for all, as he
10 or they may prefer. Every deed for two or more adjoining
11 pieces of real estate within the same tax district, or
12 undivided interests therein, shall describe each piece of
13 real estate and each undivided interest separately.

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

1 (a) The sheriff shall receive all proceeds of sales held
2 by the deputy commissioner pursuant to sections
3 forty-five and forty-eight of this article, and all redemption
4 money paid to the deputy commissioner pursuant to
5 this article. All funds to be paid to the deputy commissioner
6 pursuant to sections forty-five, forty-eight and
7 fifty-six of this article shall be paid by check or money
8 order payable to the sheriff of the county. The deputy
9 commissioner shall, immediately upon receipt of any
10 such payment, turn such moneys over to the sheriff.

11 (b) The sheriff shall keep in a separate fund, to be
12 known and designated the "Delinquent Nonentered
13 Land Fund", the proceeds of all redemptions and sales
14 paid to him under the provisions of sections forty-five,
15 forty-eight and fifty-six of this article. Out of the total
16 proceeds of each sale or redemption he shall, in the order
17 of priority stated below, credit the following amount for
18 payment as hereinafter provided: (1) To the deputy
19 commissioner, such part as represents compensation due
20 him under the provisions of section sixty-six of this
21 article and the charge for the cost of preparing and
22 publishing the notice required in section forty-six of this
23 article; (2) to the auditor, such part as represents any
24 charges which were paid by or which are payable to him;
25 (3) to the general county fund, such part as represents
26 costs paid out of such fund for publishing the sheriff's
27 delinquent and sales list and all other costs incurred by
28 the sheriff pursuant to the provisions of this article; and
29 (4) to the auditor for credit to the general school fund,

30 such part as represents all taxes and interest chargeable
31 in respect to any nonentered lands and all surplus
32 proceeds of sale of any waste and unappropriated lands.
33 In addition thereto, surplus proceeds from the deputy
34 commissioner's sale of delinquent and nonentered lands,
35 as well as the proceeds from the sale of escheated lands,
36 shall be held by the sheriff for the periods provided in
37 section sixty-five of this article and section seven, article
38 four of this chapter, and if no claim is made therefore to
39 the sheriff within the time therein specified, such
40 amounts shall be paid to the auditor for credit to the
41 general school fund.

42 The balance, if any, of the proceeds of the lands sold by
43 the deputy commissioner shall be prorated among the
44 various taxing units on the basis of the total amount of
45 taxes due them in respect to the lands that were sold or
46 redeemed. The amounts so determined shall be credited
47 as follows, for payment as hereinafter provided: (1) To
48 the auditor, such part as represents state taxes and
49 interest; and (2) to the fund kept by the sheriff for each
50 local taxing unit, such part as represents taxes and
51 interest payable to such unit.

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

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

§11A-3-66. Compensation of deputy commissioner.

1 As compensation for his services, the deputy commis-
2 sioner shall be entitled to a fee of ten dollars for each

3 item certified to him by the auditor pursuant to section
4 forty-four of this article. In addition thereto he shall
5 receive a commission of fifteen percent on each sale or
6 redemption, whichever is greater. A commission re-
7 ceived on a sale shall be based on the sale price and a
8 commission received on a redemption shall be based on
9 the total taxes and interest due. Such compensation
10 shall be paid as provided in this article.

§11A-3-69. Effect of repeal.

1 The repeal of the provisions of sections thirty-nine,
2 thirty-nine-a, thirty-nine-b and forty-one, article four of
3 this chapter which was affected by the recodification of
4 this article and article four of this chapter as the result
5 of the enactment of chapter eighty-seven, acts of the
6 Legislature, regular session, one thousand nine hundred
7 ninety-four, shall not be construed to affect any right
8 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.**

1 In view of the desirability of stable land titles and to
2 encourage landowners to cause their lands to be assessed
3 and pay the taxes thereon, it is the purpose and intent of
4 the Legislature to release all of the state's title and claim
5 and the authority and control of the auditor to any real
6 estate on which all taxes have been paid for ten consecu-
7 tive years and release all taxes prior to such ten-year
8 period. If, heretofore or hereafter, all taxes due on any
9 parcel of land for ten consecutive years have been fully
10 paid, all title to any such land acquired by the state prior
11 to said ten-year period or all real property tax liens
12 which subject the lands to the authority and control of
13 the auditor prior to said ten-year period shall be and is
14 hereby released to the person who would be the owner
15 thereof but for the title of the state or the real property
16 tax liens which subject the lands to the authority and
17 control of the auditor so released and all unpaid taxes
18 prior to said ten-year period are declared to be fully
19 paid.

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

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

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

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

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

1 In view of the great uncertainty and confusion existing
2 in the auditor's records of delinquent lands for the years
3 prior to one thousand nine hundred thirty-six, due to the
4 insufficient and inadequate reports by former school
5 land commissioners and the doubtful status of delin-
6 quent or forfeited undivided interests, the Legislature
7 finds that it will be impossible to provide a speedy
8 method for disposing of delinquent and forfeited lands
9 and for conveying to the purchasers of such lands a
10 secure title, unless some action is taken to prevent the

11 certifications and sale of lands which were formerly
12 redeemed from or were sold by such commissioners, but
13 which appear on the auditor's records, as unsold and
14 unredeemed. Wherefore, it is the purpose and intent of
15 the Legislature to release all taxes, interest and charges
16 that may be due on any real estate in this state for the
17 assessment year one thousand nine hundred thirty-five
18 and for all years prior thereto, and all such taxes,
19 interest and charges are hereby declared to be fully paid.
20 If all the taxes due on any land for the assessment year
21 one thousand nine hundred thirty-six and for all years
22 subsequent thereto have been paid, all title to any such
23 land theretofore acquired by the state and any land
24 subject to the authority and control of the auditor shall
25 be and is hereby released.

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

39 Nothing contained in this section shall be held or
40 construed to affect in any way the right of a person
41 claiming title to any land by transfer, as provided in
42 section three, article XIII of the constitution of West
43 Virginia prior to the repeal of said constitutional provi-
44 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.**

1 In view of the large number of lots, parcels and tracts

2 of land in this state which are entered on the landbooks
3 by descriptions, or statement of interest or estate, or
4 name of owner, or in a taxing district, which are errone-
5 ous or deficient in various particulars and the large
6 number of lots, parcels and tracts of land in this state,
7 and interests and estates therein, which appear on the
8 landbooks by entries which have been or may be consid-
9 ered to be irregular, erroneous, invalid or void in various
10 particulars because of the way in which the name of the
11 owner, the area, the lot or tract number or reference, the
12 local description, the statement of the interest or estate
13 and other particulars are stated, or because the entries
14 are in the wrong taxing district; and the uncertainty
15 which exists as to whether the payment of taxes thereon
16 prevents the land intended to be assessed from having
17 been forfeited for nonentry or be subject to the authority
18 and control of the auditor pursuant to section thirty-
19 seven of this article; and in view of the necessity for
20 permitting the owners of such land to pay taxes thereon
21 in safety and to relieve from and avoid double payment
22 of taxes on the same land in such cases, it is the purpose
23 and intent of the Legislature to, and it hereby does,
24 release all taxes and charges that may be or become due
25 or unpaid, or considered to be or become due or unpaid,
26 on any such lot, parcel or tract of land in this state for
27 each year that the taxes charged thereon under such
28 entry have been or shall be paid, even though the entry
29 be entirely different in description or otherwise from the
30 land intended or be completely deficient, provided the
31 identity of the land intended by such entry can be
32 ascertained. All title which has been acquired by the
33 state of West Virginia by forfeiture of land or lands
34 which are subject to the authority and control of the
35 auditor because of any such entry for any such year is
36 hereby released and granted to the owner of such land in
37 all cases where the identity of the land intended by such
38 entry can be ascertained. No such entry heretofore or
39 hereafter made for any such year shall constitute, or be
40 considered to constitute, a failure of the owner of such
41 land to have the same entered on the landbooks and to
42 have himself charged with taxes thereon, or an omission
43 of the same from the landbooks, or shall result in, or be

44 considered to have resulted in a forfeiture for nonentry
45 of the land or be considered to subject the land to the
46 authority and control of the auditor intended by such
47 entry if the identity of the land intended by such entry
48 can be ascertained. Such identity may be ascertained by
49 any available evidence, parole or written, of record or
50 not of record, including, but not limited to, tracing back
51 prior years landbook entries and valuations to a transfer
52 to the present or a former owner, notations on the
53 landbooks and other records in the office of the assessor
54 for the current and prior years, conveyances to and from
55 the present and former owners, and all pertinent evi-
56 dence not within the foregoing classes. The provisions of
57 this section are remedial and shall be liberally construed
58 for the relief of landowners.

§11A-3-74. Severability.

1 If any section, subsection, subdivision, subparagraph,
2 sentence or clause of this article is adjudged to be
3 unconstitutional or otherwise invalid, such invalidation
4 shall not affect the validity of the remaining portions of
5 this article and, to this end, the provisions of this article
6 are hereby declared to be severable.

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

Vandy Schoonveld
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Harrell E. Baker
.....
Clerk of the Senate

Donald L. Voff
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Paul E. C. C. C.
.....
Speaker House of Delegates

The within this the.....

day of, 1995.

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Governor

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