

SB 403

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



ENROLLED

COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 403

(By Senator CRAIGO)



PASSED MARCH ¹³ 12, 1998 ^{on Tel}

In Effect NINETY DAYS FROM Passage

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STATE OF WEST VIRGINIA

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Senate Bill No. 403

(SENATOR CRAIGO, *original sponsor*)

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[Passed March ¹³~~12~~, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact sections fourteen, sixteen, nineteen, twenty-one, twenty-three, twenty-four and twenty-five, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to sheriff's tax lien sales; requiring the sheriff to collect subsequent taxes due from the purchaser of a tax lien before a certificate of sale is issued; establishing a time limit before charges attach for expenses incurred for preparation of notices to redeem; requiring the purchaser of a tax lien to furnish the person redeeming the property with a certification of title examination; providing that purchasers may only be reimbursed for title examinations performed by certain persons; modifying form of notice to redeem; and making certain technical revisions.

Be it enacted by the Legislature of West Virginia:

That sections fourteen, sixteen, nineteen, twenty-one, twenty-three, twenty-four and twenty-five, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 3. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.

§11A-3-14. Purchase by individual at tax sale; certificate of sale.

1 (a) If the highest bidder present at the sale provided for
2 in section five of this article, bids and pays at least the
3 amount of taxes, interest and charges for which the tax
4 lien on any real estate is offered for sale, the sheriff shall
5 issue to him or her a certificate of sale for the purchase
6 money, except the sheriff shall require payment of any
7 subsequent taxes due at the time of the sale before a
8 certificate of sale is issued. The heading of the certificate
9 shall be:

10 Memorandum of tax lien on real estate sold in the
11 county of _____ on this _____ day of _____, 19 __,
12 for the nonpayment of taxes charged thereon for the year
13 (or years) 19__.

14 Except for the heading, the tax commissioner shall
15 prescribe the form of the receipt.

16 (b) The certificate of sale shall describe the real estate
17 subject to the tax lien that was sold, the total amount of
18 all taxes, interest, penalties and costs paid for each lot or
19 tract, and the rate of interest to which the purchaser is
20 entitled upon redemption. The certificate shall also set
21 forth columns for the entry of subsequent years taxes paid
22 and costs required by the sheriff to be paid on the date of
23 the sale, and for the entry of subsequent taxes and costs
24 paid. For each certificate delivered, the purchaser shall
25 pay a fee of ten dollars, and that amount shall be included
26 in the costs described in the certificate.

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

1 Any person who has paid any subsequent taxes, other
2 than the subsequent taxes paid on the date of the sale as
3 provided for in section fourteen of this article, on lands for
4 which he or she holds the certificate of sale described in
5 section fourteen or fifteen of this article shall produce the
6 certificate and copies of paid tax receipts to the clerk of
7 the county commission, who shall endorse the amount of
8 the subsequent taxes and the date of payment of the taxes
9 in his or her records upon the payment to the clerk of a fee
10 for the endorsement in the amount of two dollars.

§11A-3-19. What purchaser must do before he can secure deed.

1 (a) At any time after the thirty-first day of October of
2 the year following the sheriff's sale, and on or before the
3 thirty-first day of December of the same year, the pur-
4 chaser, his or her heirs or assigns, in order to secure a deed
5 for the real estate subject to the tax lien or liens pur-
6 chased, shall: (1) Prepare a list of those to be served with
7 notice to redeem and request the clerk to prepare and
8 serve the notice as provided in sections twenty-one and
9 twenty-two of this article; (2) provide the clerk with a list
10 of any additional expenses incurred after the first day of
11 January of the year following the sheriff's sale for the
12 preparation of the list of those to be served with notice to
13 redeem including proof of the additional expenses in the
14 form of receipts or other evidence of reasonable legal
15 expenses incurred for the services of any attorney who has
16 performed an examination of the title to the real estate
17 and rendered a written opinion and certification thereon;
18 (3) deposit, or offer to deposit, with the clerk a sum
19 sufficient to cover the costs of preparing and serving the
20 notice; and (4) present the purchaser's certificate of sale,
21 or order of the county commission where the certificate
22 has been lost or wrongfully withheld from the owner, to
23 the clerk of the county commission. For failure to meet
24 these requirements, the purchaser shall lose all the

25 benefits of his or her purchase.

26 (b) If the person requesting preparation and service of
27 the notice is an assignee of the purchaser, he or she shall,
28 at the time of the request, file with the clerk a written
29 assignment to him or her of the purchaser's rights, exe-
30 cuted, acknowledged and certified in the manner required
31 to make a valid deed.

32 (c) Whenever any certificate given by the sheriff for a
33 tax lien on any land, or interest in the land sold for
34 delinquent taxes, or any assignment of the lien is lost or
35 wrongfully withheld from the rightful owner of the land
36 and the land or interest has not been redeemed, the county
37 commission may receive evidence of the loss or wrongful
38 detention and, upon satisfactory proof of that fact, may
39 cause a certificate of the proof and finding, properly
40 attested by the county clerk under the seal of the county,
41 to be delivered to the rightful claimant, and a record of
42 the certificate shall be duly made by the county clerk in
43 the recorded proceedings of the commission.

§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 prepare a notice in form or effect as
4 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 the
10 real estate for which the tax lien(s) thereon were sold)
11 located in _____, (here name the city, town or
12 village in which the real estate is situated or, if not within
13 a city, town or village, give the district and a general
14 description) which was returned delinquent in the name of
15 _____, and for which the tax lien(s) thereon

16 was sold by the sheriff of _____ County at the
 17 sale for delinquent taxes made on the _____
 18 day of _____, 19____, has requested that you be
 19 notified that a deed for such real estate will be made to
 20 him on or after the first day of April, 19____, as provided by
 21 law, unless before that day you redeem such real estate.
 22 The amount you will have to pay to redeem on the last
 23 day, March thirty-first, will be as follows:

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

27 Amount of subsequent years taxes paid on the property,
 28 since the sale, with interest to March 31, 19____
 29 \$ _____

30 Amount paid for title examination and preparation of
 31 list of those to be served, and for preparation and service
 32 of the notice with interest from January 1, 19 (insert year
 33 following the sheriff's sale to March 31, 19____
 34 \$ _____

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

39 Total \$ _____

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

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

45 _____

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

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

**§11A-3-23. Redemption from purchase; receipt; list of redemp-
tions; 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 any
3 other person who was entitled to pay the taxes on, any
4 real estate for which a tax lien thereon was purchased by
5 an individual may redeem at any time before a tax deed is
6 issued for the real estate. In order to redeem, he or she
7 shall 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 at the rate of one percent per month from the date
11 of sale; (2) all other taxes which have since been paid by
12 the purchaser, his or her heirs or assigns, with interest at
13 the rate of one percent per month from the date of pay-
14 ment; (3) any additional expenses incurred from the first
15 day of January of the year following the sheriff's sale to
16 the date of redemption for the preparation of the list of
17 those to be served with notice to redeem and any title
18 examination incident thereto, with interest at the rate of
19 one percent per month from the date of payment for
20 reasonable legal expenses incurred for the services of an
21 attorney who has performed an examination of the title to
22 the real estate and rendered a written opinion and certifi-
23 cation thereon: *Provided*, That the amount he or she shall
24 be required to pay, excluding the interest, for the expenses
25 incurred for the preparation of the list of those to be

26 served with notice to redeem required by section nineteen
27 of this article and any title examination performed, shall
28 not exceed two hundred dollars; and (4) all additional
29 statutory costs paid by the purchaser. Where the clerk has
30 not received from the purchaser satisfactory proof of the
31 expenses incurred in preparing the notice to redeem, and
32 any examination of title incident thereto, in the form of
33 receipts or other evidence of legal expenses incurred as
34 provided in section nineteen of this article, the person
35 redeeming shall pay the clerk the sum of two hundred
36 dollars plus interest at the rate of one percent per month
37 from the first day of January of the year following the
38 sheriff's sale for disposition by the sheriff pursuant to the
39 provisions of sections ten, twenty-four, twenty-five and
40 thirty-two of this article.

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

43 (b) Any person who, by reason of the fact that no
44 provision is made for partial redemption of the tax lien on
45 real estate purchased by an individual, is compelled in
46 order to protect himself or herself to redeem the tax lien
47 on all of the real estate when it belongs, in whole or in
48 part, to some other person, shall have a lien on the interest
49 of that other person for the amount paid to redeem the
50 interest. He or she shall lose his or her right to the lien,
51 however, unless within thirty days after payment he or she
52 files with the clerk of the county commission his or her
53 claim in writing against the owner of the interest, together
54 with the receipt provided for in this section. The clerk
55 shall docket the claim on the judgment lien docket in his
56 or her office and properly index the claim. The lien may
57 be 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 or her
4 heirs and assigns. The clerk shall also note the fact of
5 redemption on his or her 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 this
9 article an amount equal to the amount of taxes, interest
10 and charges due on the date of the sale, plus the interest at
11 the rate of one percent per month from the date of sale to
12 the date of redemption, the amount of the subsequent
13 years taxes paid the day of or after the sheriff's sale, plus
14 interest at the rate of one percent per month thereon from
15 the date of payment to the date of redemption, the amount
16 of any additional expenses incurred after the first day of
17 January of the year following the sheriff's sale for the
18 preparation of the list of those to be served with notice to
19 redeem and any examination of title performed and
20 certified pursuant to the provisions of section nineteen of
21 this article, plus interest at a rate of one percent per
22 month from the date of payment to the date of redemp-
23 tion. In cases where the clerk has not received from the
24 purchaser satisfactory proof of additional expenses
25 incurred after the first day of January of the year follow-
26 ing the sheriff's sale as provided in section twenty-three
27 of this article, the sheriff shall deposit the money received
28 in the sale of tax lien surplus fund provided by section ten
29 of this article.

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

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

9 the sale of tax lien surplus fund provided by section ten of
10 this article: (A) The surplus of money paid in excess of the
11 amount of the taxes, interest and charges due and paid to
12 the sheriff at the sale; and (B) the amount of taxes, interest
13 and charges due on the date of the sale, plus the interest at
14 the rate of one percent per month from the date of sale to
15 the date of redemption; (2) all other taxes on the land
16 which have since been paid by the purchaser, his or her
17 heirs or assigns, with interest at the rate of one percent per
18 month from the date of payment to the date of redemp-
19 tion; (3) any additional expenses that may have been
20 incurred from the first day of January of the year follow-
21 ing the sheriff's sale to the date of redemption in prepar-
22 ing the list of those to be served with notice to redeem and
23 any title examination performed in accordance with
24 section nineteen of this article with interest at the rate of
25 one percent per month from the date of payment, but the
26 amount which shall be paid, excluding the interest, for the
27 expenses incurred for the preparation of the list of those
28 to be served with notice to redeem required by section
29 nineteen of this article, and any title examination shall not
30 exceed two hundred dollars; and (4) all additional statu-
31 tory costs paid by the purchaser.

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

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

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

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

45 (2) Subject to the limitations of this section, the pur-
46 chaser is entitled to recover any expenses incurred in
47 preparing the list of those to be served with notice to
48 redeem and any title examination incident thereto from
49 the first day of January of the year following the sheriff's
50 sale to the date of the sale to the date of the redemption.

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

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

Paul Schoover
.....
Chairman Senate Committee.

Nick Fentress
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Dorinda Helms
.....
Clerk of the Senate

Bryony A. Sims
.....
Clerk of the House of Delegates

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

Frans
.....
Speaker House of Delegates

The within *Approved* this the *27th*
March
day of, 1998.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/24/98

Time 3:10 pm

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