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WEST VIRGINIA LEGISLATURE  
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# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 4533**

(By Delegates Stalnaker and Davis)



Passed March 10, 2000

In Effect Ninety Days from Passage

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DEPT. OF TREASURY  
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STATE OF WEST VIRGINIA

## **ENROLLED**

COMMITTEE SUBSTITUTE

FOR

## **H. B. 4533**

(BY DELEGATES STALNAKER AND DAVIS)

[Passed March 10, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, five, eighteen, twenty-seven, forty-five, forty-six and forty-eight, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to real property tax liens sold by sheriff for delinquent ad valorem taxes; hours of sale; forfeiture of purchaser's rights because of the expiration of the tax lien; limitation on the time to apply for quitclaim deed; publication of notice of auction; and auction without additional advertising.

*Be it enacted by the Legislature of West Virginia:*

That sections two, five, eighteen, twenty-seven, forty-five, forty-six and forty-eight, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**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 year,  
2 the sheriff shall prepare a second list of delinquent lands, which  
3 shall include all real estate in his county remaining delinquent  
4 as of the first day of September, together with a notice of sale,  
5 in form or effect as follows:

6 Notice is hereby given that tax liens for the following  
7 described tracts or lots of land or undivided interests therein in  
8 the County of \_\_\_\_\_ which are delinquent for the  
9 nonpayment of taxes for the year (or years) 19\_\_\_\_, will be  
10 offered for sale by the undersigned sheriff (or collector) at  
11 public auction at the front door of the courthouse of the county,  
12 between the hours of nine in the morning and four in the  
13 afternoon, on the \_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

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

20 21 22	Name of person charged with taxes	Quantity of land	Local description	Total amount of taxes, interest and charges due to date of sale
23				

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

29 Given under my hand this \_\_\_\_\_ day of  
30 \_\_\_\_\_, 19\_\_\_\_.

31  
32

Sheriff (or collector).

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

38 (b) In addition to such publication, no less than thirty days  
39 prior to the sale the sheriff shall send a notice of the delin-  
40 quency and the date of sale by certified mail: (1) To the last  
41 known address of each person listed in the land books whose  
42 taxes are delinquent; (2) to each person having a lien on real  
43 property upon which the taxes are due as disclosed by a  
44 statement filed with the sheriff pursuant to the provisions of  
45 section three of this article; (3) to each other person with an  
46 interest in the property or with a fiduciary relationship to a  
47 person with an interest in the property who has in writing  
48 delivered to the sheriff on a form prescribed by the tax commis-  
49 sioner a request for such notice of delinquency; and (4) in the  
50 case of property which includes a mineral interest but does not  
51 include an interest in the surface other than an interest for the  
52 purpose of developing the minerals, to each person who has in  
53 writing delivered to the sheriff, on a form prescribed by the tax  
54 commissioner, a request for such notice which identifies the  
55 person as an owner of an interest in the surface of real property  
56 that is included in the boundaries of such property: *Provided,*  
57 That in a case where one owner owns more than one parcel of  
58 real property upon which taxes are delinquent, the sheriff may,  
59 at his option, mail separate notices to the owner and each  
60 lienholder for each parcel or may prepare and mail to the owner

61 and each lienholder a single notice which pertains to all such  
62 delinquent parcels. If the sheriff elects to mail only one notice,  
63 that notice shall set forth a legally sufficient description of all  
64 parcels of property on which taxes are delinquent. In no event  
65 shall failure to receive the mailed notice by the landowner or  
66 lienholder affect the validity of the title of the property con-  
67 veyed if it is conveyed pursuant to section twenty-seven or  
68 fifty-nine of this article.

69 (c) (1) To cover the cost of preparing and publishing the  
70 second delinquent list, a charge of twelve dollars and fifty cents  
71 shall be added to the taxes, interest and charges already due on  
72 each item and all such charges shall be stated in the list as a part  
73 of the total amount due.

74 (2) To cover the cost of preparing and mailing notice to the  
75 landowner, lienholder or any other person entitled thereto  
76 pursuant to this section, a charge of five dollars per addressee  
77 shall be added to the taxes, interest and charges already due on  
78 each item and all such charges shall be stated in the list as a part  
79 of the total amount due.

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

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

1 (a) The tax lien on each unredeemed tract or lot, or each  
2 unredeemed part thereof or undivided interest therein shall be

3 sold by the sheriff, in the same order as set forth in the list and  
4 notice prescribed in section two of this article, at public auction  
5 to the highest bidder, between the hours of nine in the morning  
6 and four in the afternoon on any business working day after the  
7 fourteenth day of October and before the twenty-third day of  
8 November: *Provided*, That no tax lien for such unredeemed  
9 tract or lot or undivided interest therein shall be sold upon any  
10 bid or for any sum less than the total amount of taxes, interest  
11 and charges then due: *Provided, however*, That at any such sale,  
12 the tax lien for each unredeemed tract or lot, or undivided  
13 interest therein, shall be offered for sale and sold for the  
14 entirety of such tract or lot or undivided interest therein as the  
15 same is described and constituted as a unit or entity in the list  
16 and notice prescribed in section two of this article. If the sale  
17 shall not be completed on the day designated in the notice for  
18 the holding of such sale, it shall be continued from day to day  
19 between the same hours until disposition shall have been made  
20 of all the land. The payment for any tax lien purchased at a sale  
21 shall be made by check or money order payable to the sheriff of  
22 the county and delivered before the close of business on the day  
23 of the sale.

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

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

1 (a) No lien upon real property evidenced by a tax certificate  
2 of sale issued by a sheriff on account of any delinquent property

3 taxes may remain a lien thereon for a period longer than  
4 eighteen months after the original issuance thereof.

5 (b) All rights of a purchaser shall be deemed forfeited and  
6 expired and no tax deed is to be issued on any tax sale evi-  
7 denced by a tax certificate of sale where the certificate has  
8 ceased to be a lien pursuant to the provisions of this section and  
9 application for the tax deed, pursuant to the provisions of  
10 section twenty-seven of this article, is not pending at the time  
11 of the expiration of the limitation period provided for in this  
12 section.

13 (c) Whenever a lien evidenced by a tax certificate of sale  
14 has expired by reason of the provisions of this section, the  
15 county clerk shall immediately issue and record a certificate of  
16 cancellation describing the real estate included in the certificate  
17 of purchase or tax certificate and giving the date of cancellation  
18 and the clerk shall also make proper entries in his or her  
19 records. The clerk shall also present a copy of every such  
20 certificate of cancellation to the sheriff who shall enter the same  
21 in the sheriff's records and the certificate and the record are  
22 prima facie evidence of the cancellation of the certificate of sale  
23 and of the release of the lien of the certificate on the lands  
24 therein described. Failure to record the certificate of cancella-  
25 tion does not extend the lien evidenced by the certificate of sale.  
26 The sheriff and county clerk are not entitled to any fees for the  
27 issuing of the certificate of cancellation nor for the entries in  
28 their books made under the provisions of this subsection.

**§11A-3-27. Deed to purchaser; record.**

1 If the real estate described in the notice is not redeemed  
2 within the time specified therein, but in no event prior to the  
3 first day of April of the second year following the sheriff's sale,  
4 the person entitled thereto shall thereafter, but prior to the  
5 expiration of the lien evidenced by a tax certificate of sale

6 issued by a sheriff for such real estate as provided in section  
7 eighteen of this article, make and deliver to the clerk of the  
8 county commission subject to the provisions of section eighteen  
9 of this article, a quitclaim deed for the real estate in form or  
10 effect as follows:

11 This deed made this \_\_\_\_\_ day of \_\_\_\_\_,  
12 19\_\_\_\_, by and between \_\_\_\_\_, clerk of the  
13 county commission of \_\_\_\_\_ County,  
14 West Virginia, (or by and between \_\_\_\_\_, a  
15 commissioner appointed by the Circuit Court of  
16 \_\_\_\_\_ County, West Virginia) grantor, and  
17 \_\_\_\_\_, purchaser, (or \_\_\_\_\_, heir,  
18 devisee or assignee of \_\_\_\_\_, purchaser),  
19 grantee, witnesseth, that:

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

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



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

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

47       Witness the following signature: \_\_\_\_\_

48       Clerk of the County Commission of \_\_\_\_\_  
49 County.

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

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

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

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

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

32 The nonprofit corporation referred to in this subsection  
33 does not include a business organized for profit, a labor union,

34 a partisan political organization or an organization engaged in  
35 religious activities and it does not include any other group  
36 which does not have as its principal purpose the construction of  
37 housing or public 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 commis-  
3 sioner shall publish notice of the auction as a Class III-0 legal  
4 advertisement in compliance with the provisions of article  
5 three, chapter fifty-nine of this code, and the publication area  
6 for such publication shall be the county.

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

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

18       Each tract or lot as described below will be sold to the  
19 highest bidder. The payment for any tract or lot purchased at a  
20 sale shall be made by check or money order payable to the  
21 sheriff of the county and delivered before the close of business  
22 on the day of the sale. If any of said tracts or lots remain unsold  
23 following the auction, they will be subject to sale by the deputy  
24 commissioner without additional advertising or public auction.  
25 The deputy commissioner sale may include tracts or lots  
26 remaining unsold from a previous auction not required by law  
27 to be readvertised and described for this subsequent auction of

28 those same tracts and lots. All sales are subject to the approval  
29 of the auditor of the state of West Virginia.

30 (here insert description of advertised lands to be sold)

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

37 Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_,  
38 19\_\_\_\_\_.

39 \_\_\_\_\_ Deputy Commissioner of  
40 Delinquent and Nonentered Lands of \_\_\_\_\_  
41 County.

42 The description of lands required in the notice shall be in  
43 the same form as the list certifying said lands to the deputy  
44 commissioner for sale. If the deputy commissioner is required  
45 to auction lands certified to him in any previous years, pursuant  
46 to section forty-eight of this article, he shall include such lands  
47 in the auction without further advertisement, with reference to  
48 the year of certification and the item number of the tract or  
49 interest.

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

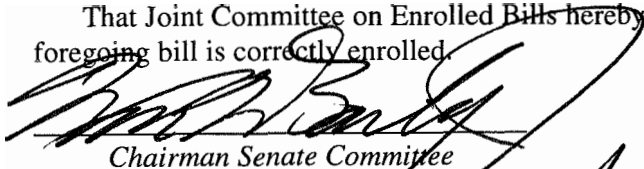
**§11A-3-48. Unsold lands subject to sale without auction or additional advertising.**

1 If any of the lands which have been offered for sale at the  
2 public auction provided in section forty-five of this article shall

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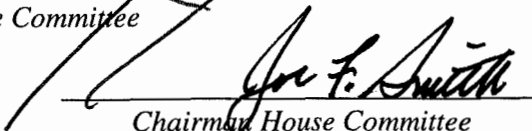
3 remain unsold following such auction, or if the auditor refuses  
4 to approve the sale pursuant to section fifty-one of this article,  
5 the deputy commissioner may sell such lands at any time  
6 subsequent to such auction, without any further public auction  
7 or additional advertising of such land, to any party willing to  
8 purchase such property. The price of such property shall be as  
9 agreed upon by the deputy commissioner and purchaser, subject  
10 to approval by the auditor as provided in section fifty-one of  
11 this article.

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



*[Handwritten Signature]*

Chairman Senate Committee

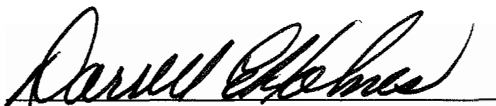


*[Handwritten Signature]*

Chairman House Committee


Originating in the House.

In effect ninety days from passage.



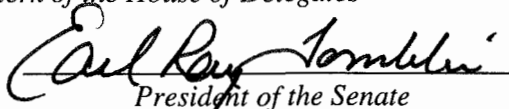
*[Handwritten Signature]*

Clerk of the Senate



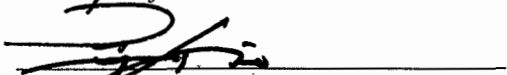
*[Handwritten Signature]*

Clerk of the House of Delegates



*[Handwritten Signature]*

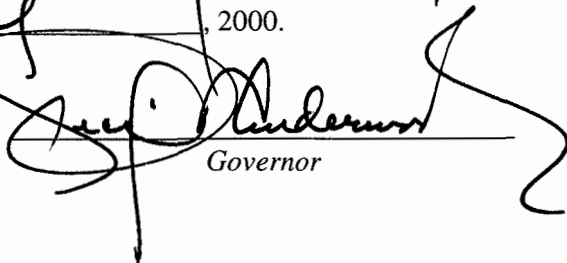
President of the Senate



*[Handwritten Signature]*

Speaker of the House of Delegates

The within approved this the 2nd  
day of April, 2000.



*[Handwritten Signature]*

Governor

PRESENTED TO THE

GOVERNOR

Date 3/29/00

Time 3:20 pm