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WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

WEST VIRGINIA
SECRETARY OF STATE

SB 232

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 232

(SENATORS SNYDER, BROWNING, FOSTER,
LAIRD, MINARD, OLIVERIO, KESSLER, PALUMBO,
BARNES, DEEM, UNGER, STOLLINGS, McCABE,
PLYMALE AND WELLS, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §11A-3-5a and §11A-3-5b; and to amend and reenact §11A-3-6, §11A-3-8, §11A-3-9, §11A-3-11, §11A-3-14, §11A-3-15, §11A-3-16, §11A-3-18, §11A-3-19, §11A-3-20, §11A-3-21, §11A-3-22, §11A-3-23, §11A-3-24, §11A-3-25, §11A-3-26, §11A-3-27, §11A-3-28, §11A-3-29, §11A-3-30, §11A-3-31 and §11A-3-32 of said code, all relating to delinquent land sales by the sheriff generally; authorizing the auditor to perform certain duties related to delinquent land sales by the sheriff instead of being performed by the clerk of the county commission; permitting county commissions to order that the county clerk will continue to perform the duties related to delinquent land sales by the sheriff; requiring the

mailing of a notice to redeem to the physical mailing address for the subject property; prohibiting certain assistants from purchasing tax liens; requiring certification of real estate by the sheriff to the auditor where the highest bidder bids at least the amount of taxes, interest and charges for which a tax lien is offered for sale; requiring notice to the purchaser of the requirement to secure a deed; increasing maximum reimbursable amount for certain legal services; requiring that a person redeeming be given a copy of the written opinion or report used for the preparation of the list of those to be served with notice; authorizing the county clerk to accept and write a receipt for payment made to redeem delinquent lands on behalf of the auditor; requiring that certain reimbursements to purchasers must be for legal services actually performed; enlarging the time within which a quitclaim deed must be delivered; authorizing the auditor to appoint designees; and establishing and increasing fees for services provided.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §11A-3-5a and §11A-3-5b; and that §11A-3-6, §11A-3-8, §11A-3-9, §11A-3-11, §11A-3-14, §11A-3-15, §11A-3-16, §11A-3-18, §11A-3-19, §11A-3-20, §11A-3-21, §11A-3-22, §11A-3-23, §11A-3-24, §11A-3-25, §11A-3-26, §11A-3-27, §11A-3-28, §11A-3-29, §11A-3-30, §11A-3-31 and §11A-3-32 of said code be amended and reenacted, all to read as follows:

ARTICLE 3. SALE OF TAX LIENS AND NONENTERED, ESCHEATED AND WASTE AND UNAPPROPRIATED LANDS.

§11A-3-5a. Effective date of transfer of duties for delinquent land sales by sheriff from the county clerk to the State Auditor.

- 1 Effective July 1, 2010, the rights, duties and benefits of
- 2 the county clerk set out in sections fourteen, sixteen,

3 eighteen, nineteen, twenty-one, twenty-two, twenty-three,
4 twenty-four, twenty-five, twenty-six, twenty-seven,
5 twenty-eight, twenty-nine, thirty and thirty-one of this
6 article, for all real properties already purchased at the
7 delinquent landsales by the sheriff and for all real proper-
8 ties subsequently purchased at the delinquent land sales
9 by the sheriff, are transferred to the State Auditor.

**§11A-3-5b. Authorization for county clerk to perform duties
for delinquent land sales by sheriff.**

1 (a) If the clerk of the county commission wants to
2 perform the duties of the State Auditor and retain the fees
3 incident to the duties as set forth in sections fourteen,
4 sixteen, eighteen, nineteen, twenty-one, twenty-two,
5 twenty-three, twenty-four, twenty-five, twenty-six,
6 twenty-seven, twenty-eight, twenty-nine, thirty and
7 thirty-one of this article, then the clerk of the county
8 commission shall petition its county commission for
9 authorization.

10 (b) The county commission's order for authorization
11 must be entered, certified and received by the State
12 Auditor on or before October 1 and will apply to all real
13 properties subsequently purchased at the delinquent land
14 sales by the sheriff: *Provided*, That if a county clerk wants
15 to retain the duties and fees set forth in this section on the
16 enactment of this section in 2010, then the county commis-
17 sion's order for authorization must be entered, certified
18 and received by the State Auditor on or before August 1,
19 2010, and will apply to all real properties already pur-
20 chased at the delinquent land sales by the sheriff and to all
21 real properties subsequently purchased at the delinquent
22 land sales by the sheriff.

23 (c) The county commission's order for authorization
24 remains in effect until a new order rescinding the authori-
25 zation is entered and certified by the county commission
26 and is received by the State Auditor on or before October

27 1 and applies to all real properties subsequently purchased
28 at the delinquent land sales by the sheriff.

29 (d) As long as the county commission's order for authori-
30 zation remains in effect, the county clerk is authorized to
31 perform the duties of the State Auditor and retain the fees
32 incident to the duties as set forth in sections fourteen,
33 sixteen, eighteen, nineteen, twenty-one, twenty-two,
34 twenty-three, twenty-four, twenty-five, twenty-six,
35 twenty-seven, twenty-eight, twenty-nine, thirty and
36 thirty-one of this article.

**§11A-3-6. Purchase by sheriff, State Auditor, deputy commis-
sioner and clerk of county commission prohib-
ited; coowner free to purchase at tax sale.**

1 (a) A sheriff, clerk of the county commission or circuit
2 court, assessor, State Auditor, or deputy or assistant of
3 any of them, shall not directly or indirectly become the
4 purchaser, or be interested in the purchase, of any tax lien
5 on any real estate at the tax sale or receive any tax deed
6 conveying the real estate. Any officer purchasing a tax
7 lien shall forfeit \$1,000 for each offense. The sale of a tax
8 lien on any real estate, or the conveyance of the real estate
9 by tax deed, to one of the officers named in this section is
10 voidable, at the instance of any person having the right to
11 redeem, until the real estate reaches the hands of a bona
12 fide purchaser.

13 (b) Any coowner, except a coparcener, in the absence of
14 satisfactory proof of a fiduciary relationship, is entitled to
15 acquire by tax purchase for his or her own account the tax
16 lien on the interest of any, or all, of his or her coowners in
17 any real estate, and to receive a tax deed conveying the
18 interest without being required to hold the tax lien or
19 interest or interests under any constructive trust. There
20 shall be a prima facie presumption against the existence of
21 any constructive trust.

§11A-3-8. Certification of sold and unsold property to the Auditor.

1 (a) If no person present bids the amount of taxes, interest
2 and charges due on any real estate offered for sale, the
3 sheriff shall certify the real estate to the Auditor for
4 disposition pursuant to section forty-four of this article,
5 subject, however, to the right of redemption provided by
6 section thirty-eight of this article. The Auditor shall
7 prescribe the form by which the sheriff certifies the
8 property.

9 (b) If the highest bidder present at the sale, as provided
10 in section five of this article, bids and pays, at a minimum,
11 the amount of taxes, interest and charges for which the tax
12 lien on any real estate is offered, the sheriff shall certify
13 the real estate to the State Auditor for disposition pursu-
14 ant to section fourteen of this article.

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

1 (a) As soon as the sale provided in section five of this
2 article has been completed, the sheriff shall prepare a list
3 of all tax liens on delinquent real estate purchased at the
4 sale, or suspended from sale, or redeemed before sale, or
5 certified to the Auditor. The heading of the list shall be in
6 form or effect as follows:

7 List of sales of tax liens on real estate in the county of
8 _____, returned delinquent for nonpay-
9 ment of taxes thereon for the year (or years) 20 , and sold
10 in the month (or months) of _____, 20____,
11 or suspended from sale, or redeemed before sale, or
12 certified to the Auditor.

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

17 I, _____, sheriff (or deputy sheriff
18 or collector) of the county of _____,
19 do swear that the above list contains a true account of all
20 the tax liens on real estate within my county returned
21 delinquent for nonpayment of taxes thereon for the year
22 (or years) 20 , which were sold by me or which were
23 suspended from sale or redeemed before sale or certified
24 to the Auditor, and that I am not now, nor have I at any
25 time been, directly or indirectly interested in the purchase
26 of any such tax liens.

27 (c) Except for the heading and the oath, the State
28 Auditor shall prescribe the form of the list.

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

1 (a) Within one month after completion of the sale, the
2 sheriff shall deliver the original list of sales, suspensions
3 and redemptions described in section nine of this article,
4 with a copy thereof, to the clerk of the county commission.
5 The clerk shall bind the original of such list in a perma-
6 nent book to be kept for the purpose in his or her office.
7 The clerk, within ten days after delivery of the list to him
8 or her, shall transmit the copy to the State Auditor, who
9 shall note each sale, suspension, redemption and certifica-
10 tion on the record of delinquent lands kept in his or her
11 office.

12 (b) Any sheriff who fails to prepare and return the list of
13 sales, suspensions, redemptions and certifications within
14 the time required by this section shall forfeit not less than
15 \$50 nor more than \$500, for the benefit of the general
16 school fund, to be recovered by the State Auditor or by
17 any taxpayer of the county on motion in a court of compe-
18 tent jurisdiction. Upon the petition of any person inter-
19 ested, the sheriff may be compelled by mandamus to make
20 out and return the list and the proceedings thereon shall
21 be at his or her cost.

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

1 (a) If the highest bidder present at the sale provided in
2 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, retain the original certificate for his or her file and
7 forward a copy to the State Auditor, except the sheriff
8 shall require payment of any subsequent taxes due at the
9 time of the sale before a certificate of sale is issued. The
10 heading of the certificate shall be:

11 Memorandum of tax lien on real estate sold in the county
12 of _____ on this _____
13 day of _____, 20___, for the nonpay-
14 ment of taxes charged thereon for the year (or years) 20___.

15 (b) Except for the heading, the State Auditor shall
16 prescribe the form of the receipt.

17 (c) The certificate of sale shall describe the real estate
18 subject to the tax lien that was sold, the total amount of
19 all taxes, interest, penalties and costs paid for each lot or
20 tract and the rate of interest to which the purchaser is
21 entitled upon redemption. The certificate shall also set
22 forth columns for the entry of subsequent years taxes paid
23 and costs required by the sheriff to be paid on the date of
24 the sale and for the entry of subsequent taxes and costs
25 paid. For each certificate delivered, the purchaser shall
26 pay a fee of \$10 and that amount shall be included in the
27 costs described in the certificate.

28 (d) The State Auditor shall send a notice of the require-
29 ments to secure a deed to the purchaser, or an assignee, by
30 first-class mail. The notice shall be mailed to the last
31 known address of each person who received a certificate
32 of sale from the sheriff and shall be mailed between

33 May 1 and September 1 of the year following the sheriff's
34 sale: *Provided*, That when a person purchased more than
35 one parcel of real property upon which a certificate of sale
36 was issued, the State Auditor may, at his or her option,
37 prepare and mail separate notices for each purchase to the
38 purchaser or may prepare and mail a single notice of all
39 purchases made by the purchaser. In no event shall failure
40 to receive the notice by the purchaser, or the assignee,
41 affect the procedures required by section nineteen of this
42 article.

§11A-3-15. Certificate of sale assignable.

1 The certificate of sale shall be assignable by endorse-
2 ment, and an assignment of the certificate, recorded with
3 the clerk of the county commission, vests in the assignee or
4 his or her legal representative all the right and title of the
5 original purchaser. The recording fee for an assignment of
6 a certificate of sale is \$10.

§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 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 State
7 Auditor, who shall endorse the amount of the subsequent
8 taxes and the date of payment of the taxes in his or her
9 records upon the payment to the State Auditor of a fee for
10 the endorsement in the amount of \$10.

§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 may remain a lien on the real
4 property for a period longer than eighteen months after
5 the original issuance of the tax certificate of sale.

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

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

§11A-3-19. What purchaser must do before the deed can be secured.

1 (a) At any time after October 31 of the year following the
2 sheriff's sale, and on or before December 31 of the same
3 year, the purchaser, his or her heirs or assigns, in order to
4 secure a deed for the real estate subject to the tax lien or
5 liens purchased, shall:

6 (1) Prepare a list of those to be served with notice to
7 redeem and request the State Auditor to prepare and serve

8 the notice as provided in sections twenty-one and twenty-
9 two of this article;

10 (2) When the real property subject to the tax lien is
11 classified as Class II property, provide the State Auditor
12 with the physical mailing address of the property that is
13 subject to the tax lien or liens purchased;

14 (3) Provide the State Auditor with a list of any addi-
15 tional expenses incurred after January 1 of the year
16 following the sheriff's sale for the preparation of the list of
17 those to be served with notice to redeem including proof of
18 the additional expenses in the form of receipts or other
19 evidence of reasonable legal expenses incurred for the
20 services of any attorney who has performed an examina-
21 tion of the title to the real estate and rendered written
22 documentation used in the preparation of the list of those
23 to be served with the notice to redeem;

24 (4) Deposit with the State Auditor a sum sufficient to
25 cover the costs of preparing and serving the notice; and

26 (5) Present the purchaser's certificate of sale, or order of
27 the county commission where the certificate has been lost
28 or wrongfully withheld from the owner, to the State
29 Auditor.

30 If the purchaser fails to meet these requirements, he or
31 she shall lose all the benefits of his or her purchase.

32 (b) If the person requesting preparation and service of
33 the notice is an assignee of the purchaser, he or she shall,
34 at the time of the request, file with the State Auditor a
35 written assignment to him or her of the purchaser's rights,
36 executed, acknowledged and certified in the manner
37 required to make a valid deed.

38 (c) Whenever any certificate given by the sheriff for a
39 tax lien on any land, or interest in the land sold for
40 delinquent taxes, or any assignment of the lien is lost or

41 wrongfully withheld from the rightful owner of the land
42 and the land or interest has not been redeemed, the county
43 commission may receive evidence of the loss or wrongful
44 detention and, upon satisfactory proof of that fact, may
45 cause a certificate of the proof and finding, properly
46 attested by the State Auditor, to be delivered to the
47 rightful claimant and a record of the certificate shall be
48 duly made by the county clerk in the recorded proceedings
49 of the commission.

**§11A-3-20. Refund to purchaser of payment made at sheriff's
sale where property is subject of an erroneous
assessment or is otherwise nonexistent.**

1 If, by December 31 of the year following payment of the
2 amount bid at a sheriff's sale, the purchaser discovers that
3 the lien purchased at that sale is the subject of an errone-
4 ous assessment or is otherwise nonexistent, the purchaser
5 shall submit the abstract or certificate of an attorney at
6 law that the property is the subject of an erroneous
7 assessment or is otherwise nonexistent. Upon receipt of
8 the abstract or certificate, the sheriff shall cause any
9 money paid to be refunded. Upon refund, the sheriff shall
10 inform the assessor and the State Auditor of the erroneous
11 assessment for the purpose of having the assessor correct
12 the error. For failure to meet this requirement, the
13 purchaser shall lose all benefits of his or her purchase.

§11A-3-21. Notice to redeem.

1 (a) Whenever the provisions of section nineteen of this
2 article have been complied with, the State Auditor shall
3 prepare a notice in form or effect as follows:

4 To _____.

5 You will take notice that _____, the purchaser
6 (or _____, the assignee, heir or devisee of
7 _____, the purchaser) of the tax lien(s) on the

8 following real estate, _____, (here describe
9 the real estate for which the tax lien(s) thereon were sold)
10 located in _____, (here name the city, town
11 or village in which the real estate is situated or, if not
12 within a city, town or village, give the district and a
13 general description) which was returned delinquent in the
14 name of _____, and for which the tax lien(s)
15 thereon was sold by the sheriff of _____
16 County at the sale for delinquent taxes made on the
17 _____ day of _____, 20__, has requested
18 that you be notified that a deed for such real estate will be
19 made to him or her on or after April 1, 20 __, as provided
20 by law, unless before that day you redeem such real estate.
21 The amount you will have to pay to redeem on the last
22 day, March 31, will be as follows:

23 Amount equal to the taxes, interest, and charges
24 due on the date of sale, with interest to March 31, 20 __
25\$ _____

26 Amount of subsequent years taxes paid on the property,
27 since the sale, with interest to March 31, 20 __
28 \$ _____

29 Amount paid for title examination and preparation of
30 list of those to be served, and for preparation and service
31 of the notice with interest from January 1, 20 (insert year)
32 following the sheriff's sale to March 31, 20 __
33 \$ _____

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

36 Total \$ _____

37 You may redeem at any time before March 31, 20
38 _____, by paying the above total less any
39 unearned interest.

40 Given under my hand this ____ day of _____, 20
41 _____.

42 State Auditor, State of West Virginia

43 (b) The State Auditor for his or her service in preparing
44 the notice shall receive a fee of \$10 for the original and \$2
45 for each copy required. Any additional costs which must
46 be expended for publication, or service of the notice in the
47 manner provided for serving process commencing a civil
48 action, or for service of process by certified mail, shall be
49 charged by the State Auditor. All costs provided by this
50 section shall be included as redemption costs and included
51 in the notice described in this section.

§11A-3-22. Service of notice.

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

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

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

16 (d) If the address of any person entitled to notice,
17 whether a resident or nonresident of this state, is unknown
18 to the purchaser and cannot be discovered by due dili-
19 gence on the part of the purchaser, the notice shall be
20 served by publication as a Class III-0 legal advertisement

21 in compliance with the provisions of article three, chapter
22 fifty-nine of this code and the publication area for the
23 publication shall be the county in which the real estate is
24 located. If service by publication is necessary, publication
25 shall be commenced when personal service is required as
26 set forth in this section and a copy of the notice shall at
27 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 the notice and the affida-
30 vit of publication, if any, shall be in the manner provided
31 for process generally and shall be filed and preserved by
32 the State Auditor in his or her office, together with any
33 return receipts for notices sent by certified mail.

34 In addition to the other notice requirements set forth in
35 this section, if the real property subject to the tax lien was
36 classified as Class II property at the time of the assess-
37 ment, at the same time the State Auditor issues the
38 required notices by certified mail, the State Auditor shall
39 forward a copy of the notice sent to the delinquent tax-
40 payer by first class mail, addressed to "Occupant", to the
41 physical mailing address for the subject property. The
42 physical mailing address for the subject property shall be
43 supplied by the purchaser of the tax lien pursuant to the
44 provisions of section nineteen of this article.

**§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 real
4 estate for which a tax lien on the real estate was pur-
5 chased by an individual may redeem at any time before a
6 tax deed is issued for the real estate. In order to redeem,
7 he or she shall pay to the State Auditor the following
8 amounts:

9 (1) An amount equal to the taxes, interest and charges
10 due on the date of the sale, with interest at the rate of one
11 percent per month from the date of sale;

12 (2) All other taxes which have since been paid by the
13 purchaser, his or her heirs or assigns, with interest at the
14 rate of one percent per month from the date of payment;

15 (3) Any additional expenses incurred from January 1 of
16 the year following the sheriff's sale to the date of redemp-
17 tion for the preparation of the list of those to be served
18 with notice to redeem and any written documentation used
19 for the preparation of the list, with interest at the rate of
20 one percent per month from the date of payment for
21 reasonable legal expenses incurred for the services of an
22 attorney who has performed an examination of the title to
23 the real estate and rendered written documentation used
24 for the preparation of the list: *Provided*, That the maxi-
25 mum amount the owner or other authorized person shall
26 pay, excluding the interest, for the expenses incurred for
27 the preparation of the list of those to be served required by
28 section nineteen of this article is \$300: *Provided however*,
29 That the attorney may only charge a fee for legal services
30 actually performed and must certify that he or she con-
31 ducted an examination to determine the list of those to be
32 served required by section nineteen of this article; and

33 (4) All additional statutory costs paid by the purchaser.

34 (b) Where the State Auditor has not received from the
35 purchaser satisfactory proof of the expenses incurred in
36 preparing the notice to redeem, and any written documen-
37 tation used for the preparation of the list of those to be
38 served with notice to redeem, including the certification
39 required in subdivision (3), subsection (a) of this section,
40 incident thereto, in the form of receipts or other evidence
41 of legal expenses, incurred as provided in section nineteen
42 of this article, the person redeeming shall pay the State
43 Auditor the sum of \$300 plus interest at the rate of one

44 percent per month from January 1 of the year following
45 the sheriff's sale for disposition by the sheriff pursuant to
46 the provisions of sections ten, twenty-four, twenty-five
47 and thirty-two of this article.

48 (c) The person redeeming shall be given a receipt for the
49 payment and the written opinion or report used for the
50 preparation of the list of those to be served with notice to
51 redeem required by section nineteen of this article.

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

67 (e) Before a tax deed is issued, the county clerk may
68 accept, on behalf of the State Auditor, the payment
69 necessary to redeem any real estate encumbered with a tax
70 lien and write a receipt. The amount of the payment
71 necessary to redeem any real estate encumbered with a tax
72 lien shall be provided by the State Auditor and the State
73 Auditor shall update the required payments plus interest
74 at least monthly.

75 (f) On or before the tenth day of each month, the county
76 clerk shall deliver to the State Auditor the redemption
77 money paid and the name and address of the person who

78 redeemed the property on a form prescribed by the State
79 Auditor.

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

1 (a) Upon payment made by cashier check, money order,
2 certified check or United States currency in the amount
3 necessary to redeem, the State Auditor shall deliver to the
4 sheriff the redemption money paid and the name and
5 address of the purchaser, his or her heirs and assigns. The
6 State Auditor shall also note the fact of redemption on his
7 or her record of delinquent lands.

8 (b) Of the redemption money received by the sheriff
9 pursuant to this section, the sheriff shall deposit into the
10 sale of tax lien surplus fund, provided by section ten of
11 this article, an amount equal to the amount of taxes,
12 interest and charges due on the date of the sale, plus the
13 interest at the rate of one percent per month from the date
14 of sale to the date of redemption, the amount of the
15 subsequent years' taxes paid the day of or after the sher-
16 iff's sale, plus interest at the rate of one percent per month
17 thereon from the date of payment to the date of redemp-
18 tion, the amount of any additional expenses incurred after
19 January 1 of the year following the sheriff's sale for the
20 preparation of the list of those to be served with notice to
21 redeem and any examination of title performed pursuant
22 to the provisions of section nineteen of this article, plus
23 interest at a rate of one percent per month from the date
24 of payment to the date of redemption. In cases where the
25 State Auditor has not received from the purchaser satis-
26 factory proof of additional expenses incurred after
27 January 1 of the year following the sheriff's sale as
28 provided in section twenty-three of this article, the sheriff
29 shall deposit the money received in the sale of tax lien
30 surplus fund provided by section ten 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 State
3 Auditor has delivered the redemption money to the sheriff
4 pursuant to section twenty-four of this article, the sheriff
5 shall, upon receipt of the sum necessary to redeem,
6 promptly notify the purchaser or his or her heirs or
7 assigns, by mail, of the fact of the redemption and pay to
8 the purchaser or his or her heirs or assigns the following
9 amounts:

10 (1) From the sale of tax lien surplus fund provided by
11 section ten of this article:

12 (A) The surplus of money paid in excess of the amount of
13 the taxes, interest and charges paid by the purchaser to
14 the sheriff at the sale; and

15 (B) The amount of taxes, interest and charges paid by the
16 purchaser on the date of the sale, plus the interest at the
17 rate of one percent per month from the date of sale to the
18 date of redemption;

19 (2) All other taxes on the land which have since been
20 paid by the purchaser or his or her heirs or assigns, with
21 interest at the rate of one percent per month from the date
22 of payment to the date of redemption;

23 (3) Any additional reasonable expenses that the pur-
24 chaser may have incurred from January 1 of the year
25 following the sheriff's sale to the date of redemption for
26 the preparation of the list of those to be served with notice
27 to redeem and any written documentation used for the
28 preparation of the list, in accordance with section nineteen
29 of this article, with interest at the rate of one percent per
30 month from the date of payment, but the amount which
31 shall be paid, excluding the interest, for the expenses
32 incurred for the preparation of the list of those to be

33 served with notice to redeem required by section nineteen
34 of this article shall not exceed the amount actually
35 incurred by the purchaser or \$300, whichever is less:
36 *Provided*, That the attorney may only charge a fee for
37 legal services actually performed and must certify that he
38 or she conducted an examination to determine the list of
39 those to be served required by section nineteen of this
40 article; and

41 (4) All additional statutory costs paid by the purchaser.

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

43 (A) A copy of the redemption certificate issued by the
44 State Auditor;

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

48 (C) Where, at the time of the redemption, the State
49 Auditor has not received from the purchaser satisfactory
50 proof of the expenses incurred in preparing the list of
51 those to be served with notice to redeem and any written
52 documentation used for the preparation of the list in
53 accordance with section nineteen of this article, the State
54 Auditor shall also include instructions to the purchaser as
55 to how these expenses may be claimed.

56 (2) Subject to the limitations of this section, the pur-
57 chaser is entitled to recover any expenses incurred in
58 preparing the list of those to be served with notice to
59 redeem and any written documentation used for the
60 preparation of the list from January 1 of the year follow-
61 ing the sheriff's sale to the date of the sale to the date of
62 the redemption.

63 (c) Where, pursuant to section twenty-three of this
64 article, the State Auditor has not received from the
65 purchaser satisfactory proof of the expenses incurred in

66 preparing the list of those to be served with notice to
67 redeem, including written documentation used for prepa-
68 ration of the list, in the form of receipts or other evidence
69 within thirty days from the date of notification by the
70 State Auditor, the sheriff shall refund the amount to the
71 person redeeming and the purchaser is barred from any
72 claim. Where, pursuant to that section, the State Auditor
73 has received from the person redeeming and therefore
74 delivered to the sheriff the sum of \$300 plus interest at the
75 rate of one percent per month from January 1 of the year
76 following the sheriff's sale to the date of the sale to the
77 date of redemption, and the purchaser provides the sheriff
78 within thirty days from the date of notification satisfac-
79 tory proof of the expenses, and the amount of the expenses
80 is less than the amount paid by the person redeeming, the
81 sheriff shall refund the difference to the person redeeming.

**§11A-3-26. Certificate of redemption issued by State Auditor;
recordation; disposition of redemption money.**

1 (a) Upon payment of the sum necessary to redeem, the
2 State Auditor shall execute a certificate of redemption in
3 quadruplicate, which certificate shall:

4 (1) Specify the real estate redeemed, or the part thereof
5 or the interest in the real estate, as the case may be,
6 together with any changes in respect to the real estate
7 which were made in the landbook and in the record of
8 delinquent lands;

9 (2) Specify the year or years for which payment was
10 made; and

11 (3) State that it is a receipt for the money paid and a
12 release of the tax lien on the real estate redeemed.

13 (b) The original certificate shall be retained in the files
14 in the State Auditor's office, one copy shall be delivered to
15 the person redeeming, one copy to the sheriff and one copy

16 to be retained in the files of the clerk of the county com-
17 mission. The clerk shall record the certificate in a sepa-
18 rate volume provided for that purpose.

19 (c) The fee for issuing the certificate of redemption is
20 \$35, of which \$10 of that amount shall be deposited in the
21 Courthouse Facilities Improvement Fund created by
22 section six, article twenty-six, chapter twenty-nine of this
23 code.

24 (d) All certificates of redemption issued by the State
25 Auditor in each year shall be numbered consecutively and
26 shall be filed with the clerk of the county commission.
27 Reference to the year and number of the certificate shall
28 be included in the notation of redemption required in this
29 section. No fee shall be charged by the clerk for any
30 recordation, filing or notation required by this section.

§11A-3-27. Deed to purchaser; record.

1 (a) If the real estate described in the notice is not re-
2 deemed within the time specified in the notice, then from
3 April 1 of the second year following the sheriff's sale until
4 the expiration of the lien evidenced by a tax certificate of
5 sale issued by a sheriff for the real estate as provided in
6 section eighteen of this article, the State Auditor or his or
7 her deputy shall upon request of the purchaser make and
8 deliver to the clerk of the county commission subject to the
9 provisions of section eighteen of this article, a quitclaim
10 deed for the real estate in form or effect as follows:

11 This deed made this _____ day of _____, 20
12 ____, by and between _____, State Auditor,
13 West Virginia, (or by and between _____, a
14 commissioner appointed by the circuit court of
15 _____ County, West Virginia) grantor, and
16 _____, purchaser, (or _____, heir,
17 devisee or assignee of _____, purchaser),
18 grantee, witnesseth, that:

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

34 Whereas, The State Auditor has caused the notice to
35 redeem to be served on all persons required by law to be
36 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 and
39 the time for redemption set in such notice has expired;

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

46 Witness the following signature: _____ State
47 Auditor.

48 (b) Except when ordered to do so, as provided in section
49 twenty-eight of this article, the State Auditor may not
50 execute and deliver a deed more than sixty days after the
51 person entitled to the deed delivers the same and requests
52 the execution of the deed.

53 (c) For the execution of the deed and for all the record-
54 ing required by this section, a fee of \$50 and the recording
55 and transfer tax expenses shall be charged, to be paid by
56 the grantee upon delivery of the deed. The deed, when
57 duly acknowledged or proven, shall be recorded by the
58 clerk of the county commission in the deed book in the
59 clerk's office, together with any assignment from the
60 purchaser, if one was made, the notice to redeem, the
61 return of service of the notice, the affidavit of publication,
62 if the notice was served by publication, and any return
63 receipts for notices sent by certified mail.

64 (d) The State Auditor shall appoint employees of his or
65 her office to act as his or her designee to effect the pur-
66 poses of this section.

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

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

18 (b) If the State Auditor fails or refuses to execute the
19 deed as required in section twenty-seven of this article, the
20 person requesting the deed may, at any time after such

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

34 (c) Ten days' written notice of every application must be
35 given to the State Auditor. If, upon the hearing of the
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 or her costs; but if the
39 court or judge is of the opinion that he or she is entitled to
40 the notice or deed, then, upon his or her deposit with the
41 clerk of the circuit court of a sum sufficient to cover the
42 costs of preparing and serving the notice, unless a deposit
43 has already been made with the State Auditor, an order
44 shall be made by the court or judge directing the State
45 Auditor to prepare and serve the notice or execute the
46 deed, or appointing a commissioner for the purpose, as the
47 court or judge shall determine. If it appears to the court
48 or judge that the failure or refusal of the State Auditor
49 was without reasonable cause, judgment shall be given
50 against him or her for the costs of the proceedings; other-
51 wise the costs shall be paid by the applicant.

52 (d) Any commissioner appointed under the provisions of
53 this section shall be subject to the same liabilities as are
54 provided for the State Auditor. For the preparation of the
55 notice to redeem, he or she shall be entitled to the same fee
56 as is provided for the State Auditor. For the execution of

57 the deed, he or she shall also be entitled to a fee of \$50 and
58 the recording and transfer 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 (a) Whenever one purchaser at the tax sale has pur-
2 chased tax liens on two or more adjoining pieces of real
3 estate within the same tax district, or undivided interests
4 therein, charged with taxes for the same year, or years, he
5 or she, his or her heirs or assigns may request the State
6 Auditor to execute a separate deed for each adjoining
7 piece of real estate within the same tax district, or undi-
8 vided interest therein, or separate deeds for some and one
9 deed for the remainder, or one deed for all, as he, she or
10 they may prefer.

11 (b) Every deed for two or more pieces of adjoining real
12 estate within the same tax district, or undivided interests
13 therein, shall describe each piece of real estate and each
14 undivided interest separately.

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

1 (a) Whenever the purchaser of any tax lien on any real
2 estate sold at a tax sale, his or her heirs or assigns has
3 obtained a deed for the real estate from the State Auditor
4 or from a commissioner appointed to make the deed, he or
5 she or they shall acquire all right, title and interest, in and
6 to the real estate, as was, at the time of the execution and
7 delivery of the deed, vested in or held by any person who
8 was entitled to redeem, unless that person is one who,
9 being required by law to have his or her interest separately
10 assessed and taxed, has done so and has paid all the taxes
11 due on the real estate, or unless the rights of that person
12 are expressly saved by the provisions of section six of this

13 article or section two, three, four or six, article four of this
14 chapter.

15 (b) The tax deed shall be conclusive evidence of the
16 acquisition of title. The title acquired shall relate back to
17 July 1 of the year in which the taxes, for nonpayment of
18 which the tax lien on the real estate was sold, were
19 assessed.

20 (c) Any individual purchaser to whom a tax deed has
21 been issued may institute and prosecute actions to quiet
22 title in any real estate conveyed by the tax deed. The
23 action may be maintained for all or any one or more of the
24 lots or tracts conveyed.

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

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

§11A-3-32. Sheriff to keep proceeds in separate accounts; disposition.

1 (a) The sheriff shall keep in a separate fund the proceeds
2 of all redemptions and sales paid to him or her under the
3 provisions of this chapter, except for those proceeds for
4 which a separate fund is directed by the provisions of
5 section sixty-four of this article. Out of the total proceeds
6 of each sale or redemption he or she shall in the order of
7 priority stated below credit the following amounts, for
8 payment as provided in this section:

9 (1) To the general county fund, the part that represents
10 costs paid out of the fund for publishing the sheriff's
11 delinquent and sales list and all other costs incurred by the
12 sheriff pursuant to the provisions of this article;

13 (2) Surplus proceeds from the sale of tax liens on delin-
14 quent lands shall be held by the sheriff for the periods
15 provided for in section ten of this article, and if no appli-
16 cation is made within the time specified, the surplus shall
17 be distributed by the sheriff in the manner provided by
18 law for the distribution of property taxes collected by him
19 or her; and

20 (3) The balance, if any, of the proceeds of the lands
21 included in each suit shall be prorated among the various
22 taxing units on the basis of the total amount of taxes due
23 them in respect to the lands that were sold or redeemed.

24 (b) The amounts so determined shall be credited as
25 follows, for payment as provided in this subsection:

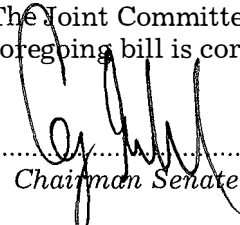
26 (1) To the State Auditor, the part that represents state
27 taxes and interest; and

28 (2) To the fund kept by the sheriff for each local taxing
29 unit, the part that represents taxes and interest payable to
30 the unit.

31 (c) All amounts which under the provisions of this
32 section were credited by the sheriff to the Auditor shall be
33 paid to him or her semiannually; and those credited to the
34 various local taxing units shall be transferred semiannu-
35 ally by the sheriff to the fund kept by him or her for each
36 taxing unit.

37 (d) The State Auditor shall prescribe the form of the
38 records to be kept by the sheriff for the purposes of this
39 section, and the method to be used by him or her in
40 making the necessary pro rata distributions.

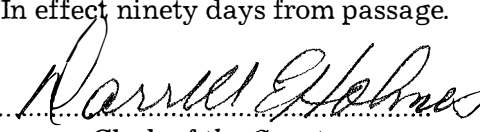
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

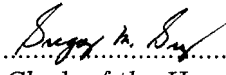

.....
Chairman Senate Committee

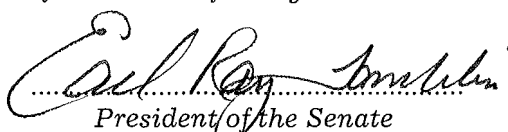

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

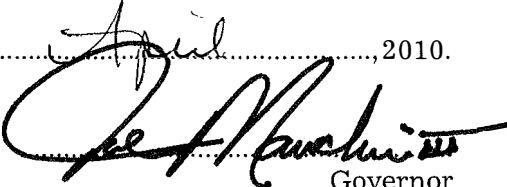

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


.....
Speaker House of Delegates

The within is approved this the 2nd
Day of April, 2010.


.....
Governor

PRESENTED TO THE
GOVERNOR

APR 01 2010

Time 11:30am