WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

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.]
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 the county clerk set out in sections fourteen, sixteen,
eighteen, nineteen, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty and thirty-one of this article, for all real properties already purchased at the delinquent land sales by the sheriff and for all real properties subsequently purchased at the delinquent land sales 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.

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

(b) The county commission's order for authorization must be entered, certified and received by the State Auditor on or before October 1 and will apply to all real properties subsequently purchased at the delinquent land sales by the sheriff: Provided, That if a county clerk wants to retain the duties and fees set forth in this section on the enactment of this section in 2010, then the county commission's order for authorization must be entered, certified and received by the State Auditor on or before August 1, 2010, and will apply to all real properties already purchased at the delinquent land sales by the sheriff and to all real properties subsequently purchased at the delinquent land sales by the sheriff.

(c) The county commission's order for authorization remains in effect until a new order rescinding the authorization is entered and certified by the county commission and is received by the State Auditor on or before October
(d) As long as the county commission's order for authori-
ization remains in effect, the county clerk is authorized to
perform the duties of the State Auditor and retain the fees
incident to the duties as set forth in sections fourteen,
sixteen, eighteen, nineteen, twenty-one, twenty-two,
twenty-three, twenty-four, twenty-five, twenty-six,
twenty-seven, twenty-eight, twenty-nine, thirty and
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.

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

(b) Any coowner, except a coparcener, in the absence of
satisfactory proof of a fiduciary relationship, is entitled to
acquire by tax purchase for his or her own account the tax
lien on the interest of any, or all, of his or her coowners in
any real estate, and to receive a tax deed conveying the
interest without being required to hold the tax lien or
interest or interests under any constructive trust. There
shall be a prima facie presumption against the existence of
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 and charges due on any real estate offered for sale, the sheriff shall certify the real estate to the Auditor for disposition pursuant to section forty-four of this article, subject, however, to the right of redemption provided by section thirty-eight of this article. The Auditor shall prescribe the form by which the sheriff certifies the property.

9 (b) If the highest bidder present at the sale, as provided in section five of this article, bids and pays, at a minimum, the amount of taxes, interest and charges for which the tax lien on any real estate is offered, the sheriff shall certify the real estate to the State Auditor for disposition pursuant 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 article has been completed, the sheriff shall prepare a list of all tax liens on delinquent real estate purchased at the sale, or suspended from sale, or redeemed before sale, or certified to the Auditor. The heading of the list shall be in form or effect as follows:

7 List of sales of tax liens on real estate in the county of ____________, returned delinquent for nonpayment of taxes thereon for the year (or years) 20__, and sold in the month (or months) of ________________ , 20___, or suspended from sale, or redeemed before sale, or certified to the Auditor.

13 (b) The sheriff shall, at the foot of the list, subscribe an oath, which shall be subscribed before and certified by some person duly authorized to administer oaths, in form or effect as follows:
I, ___________ , sheriff (or deputy sheriff or collector) of the county of ___________, do swear that the above list contains a true account of all the tax liens on real estate within my county returned delinquent for nonpayment of taxes thereon for the year (or years) 20, which were sold by me or which were suspended from sale or redeemed before sale or certified to the Auditor, and that I am not now, nor have I at any time been, directly or indirectly interested in the purchase of any such tax liens.

(c) Except for the heading and the oath, the State 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 sheriff shall deliver the original list of sales, suspensions and redemptions described in section nine of this article, with a copy thereof, to the clerk of the county commission. The clerk shall bind the original of such list in a permanent book to be kept for the purpose in his or her office. The clerk, within ten days after delivery of the list to him or her, shall transmit the copy to the State Auditor, who shall note each sale, suspension, redemption and certification on the record of delinquent lands kept in his or her office.

(b) Any sheriff who fails to prepare and return the list of sales, suspensions, redemptions and certifications within the time required by this section shall forfeit not less than $50 nor more than $500, for the benefit of the general school fund, to be recovered by the State Auditor or by any taxpayer of the county on motion in a court of competent jurisdiction. Upon the petition of any person interested, the sheriff may be compelled by mandamus to make out and return the list and the proceedings thereon shall be at his or her cost.
§11A-3-14. Purchase by individual at tax sale; certificate of sale.

(a) If the highest bidder present at the sale provided in section five of this article, bids and pays at least the amount of taxes, interest and charges for which the tax lien on any real estate is offered for sale, the sheriff shall issue to him or her a certificate of sale for the purchase money, retain the original certificate for his or her file and forward a copy to the State Auditor, except the sheriff shall require payment of any subsequent taxes due at the time of the sale before a certificate of sale is issued. The heading of the certificate shall be:

Memorandum of tax lien on real estate sold in the county of _________ on this _________ day of ___________ , 20__, for the nonpayment of taxes charged thereon for the year (or years) 20__.

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

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

(d) The State Auditor shall send a notice of the requirements to secure a deed to the purchaser, or an assignee, by first-class mail. The notice shall be mailed to the last known address of each person who received a certificate 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.


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

(c) Whenever a lien evidenced by a tax certificate of sale has expired by reason of the provisions of this section, the State Auditor shall immediately issue and record a certificate of cancellation describing the real estate included in the certificate of purchase or tax certificate and giving the date of cancellation and the State Auditor shall also make proper entries in his or her records. The State Auditor shall also present a copy of every certificate of cancellation to the sheriff who shall enter it in the sheriff's records and the certificate and the record are prima facie evidence of the cancellation of the certificate of sale and of the release of the lien of the certificate on the lands described in the certificate. Failure to record the certificate of cancellation does not extend the lien evidenced by the certificate of sale. The sheriff and State Auditor are not entitled to any fees for the issuing of the certificate of cancellation nor for the entries in their books made under the provisions of this subsection.

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

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

(1) Prepare a list of those to be served with notice to redeem and request the State Auditor to prepare and serve
the notice as provided in sections twenty-one and twenty-

two of this article;

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

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

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

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

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

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

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

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


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

To ____________________________.

You will take notice that ____________, the purchaser (or ____________, the assignee, heir or devisee of ____________, the purchaser) of the tax lien(s) on the
following real estate, _______________, (here describe the real estate for which the tax lien(s) thereon were sold) located in _______________, (here name the city, town or village in which the real estate is situated or, if not within a city, town or village, give the district and a general description) which was returned delinquent in the name of ____________, and for which the tax lien(s) thereon was sold by the sheriff of ________________ County at the sale for delinquent taxes made on the ____________ day of ____________, 20__, has requested that you be notified that a deed for such real estate will be made to him or her on or after April 1, 20__, as provided by law, unless before that day you redeem such real estate.

The amount you will have to pay to redeem on the last day, March 31, will be as follows:

Amount equal to the taxes, interest, and charges due on the date of sale, with interest to March 31, 20__ .......

Amount of subsequent years taxes paid on the property, since the sale, with interest to March 31, 20__ .......

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

Amount paid for other statutory costs (describe) ....... $__________

Total ............... $__________

You may redeem at any time before March 31, 20__ ____________, by paying the above total less any 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, whether a resident or nonresident of this state, is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement
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 affidavit
30 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 assessment,
at the same time the State Auditor issues the
37 required notices by certified mail, the State Auditor shall
38 forward a copy of the notice sent to the delinquent tax-
39 payer by first class mail, addressed to “Occupant”, to the
40 physical mailing address for the subject property. The
41 physical mailing address for the subject property shall be
42 supplied by the purchaser of the tax lien pursuant to the
43 provisions of section nineteen of this article.

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

1 (a) After the sale of any tax lien on any real estate
2 pursuant to section 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:
(1) An amount equal to the taxes, interest and charges due on the date of the sale, with interest at the rate of one percent per month from the date of sale;

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

(3) Any additional expenses incurred from January 1 of the year following the sheriff's sale to the date of redemption for the preparation of the list of those to be served with notice to redeem and any written documentation used for the preparation of the list, with interest at the rate of one percent per month from the date of payment for reasonable legal expenses incurred for the services of an attorney who has performed an examination of the title to the real estate and rendered written documentation used for the preparation of the list: Provided, That the maximum amount the owner or other authorized person shall pay, excluding the interest, for the expenses incurred for the preparation of the list of those to be served required by section nineteen of this article is $300: Provided however, that the attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by section nineteen of this article; and

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

(b) Where the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, and any written documentation used for the preparation of the list of those to be served with notice to redeem, including the certification required in subdivision (3), subsection (a) of this section, incident thereto, in the form of receipts or other evidence of legal expenses, incurred as provided in section nineteen of this article, the person redeeming shall pay the State Auditor the sum of $300 plus interest at the rate of one percent per month from the date of payment.

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
49 (c) The person redeeming shall be given a receipt for the
50 payment and the written opinion or report used for the
51 preparation of the list of those to be served with notice to
52 redeem required by section nineteen of this article.
53
54 (d) Any person who, by reason of the fact that no provi-
55 sion is made for partial redemption of the tax lien on real
56 estate purchased by an individual, is compelled in order to
57 protect himself or herself to redeem the tax lien on all of
58 the real estate when it belongs, in whole or in part, to some
59 other person, shall have a lien on the interest of that other
60 person for the amount paid to redeem the interest. He or
61 she shall lose his or her right to the lien, however, unless
62 within thirty days after payment he or she files with the
63 clerk of the county commission his or her claim in writing
64 against the owner of the interest, together with the receipt
65 provided in this section. The clerk shall docket the claim
66 on the judgment lien docket in his or her office and
67 properly index the claim. The lien may be enforced as
68 other judgment liens are enforced.
69
70 (e) Before a tax deed is issued, the county clerk may
71 accept, on behalf of the State Auditor, the payment
72 necessary to redeem any real estate encumbered with a tax
73 lien and write a receipt. The amount of the payment
74 necessary to redeem any real estate encumbered with a tax
75 lien shall be provided by the State Auditor and the State
76 Auditor shall update the required payments plus interest
77 at least monthly.
78
79 (f) On or before the tenth day of each month, the county
80 clerk shall deliver to the State Auditor the redemption
81 money paid and the name and address of the person who
redeemed the property on a form prescribed by the State
Auditor.

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

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

(b) Of the redemption money received by the sheriff pursuant to this section, the sheriff shall deposit into the sale of tax lien surplus fund, provided by section ten of this article, an amount equal to the amount of taxes, interest and charges due on the date of the sale, plus the interest at the rate of one percent per month from the date of sale to the date of redemption, the amount of the subsequent years' taxes paid the day of or after the sheriff's sale, plus interest at the rate of one percent per month thereon from the date of payment to the date of redemption, the amount of any additional expenses incurred after January 1 of the year following the sheriff's sale for the preparation of the list of those to be served with notice to redeem and any examination of title performed pursuant to the provisions of section nineteen of this article, plus interest at a rate of one percent per month from the date of payment to the date of redemption. In cases where the State Auditor has not received from the purchaser satisfactory proof of additional expenses incurred after January 1 of the year following the sheriff's sale as provided in section twenty-three of this article, the sheriff shall deposit the money received in the sale of tax lien surplus fund provided by section ten of this article.
§11A-3-25. Distribution of surplus to purchaser.

(a) Where the land has been redeemed in the manner set forth in section twenty-three of this article, and the State Auditor has delivered the redemption money to the sheriff pursuant to section twenty-four of this article, the sheriff shall, upon receipt of the sum necessary to redeem, promptly notify the purchaser or his or her heirs or assigns, by mail, of the fact of the redemption and pay to the purchaser or his or her heirs or assigns the following amounts:

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

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

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

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

(3) Any additional reasonable expenses that the purchaser may have incurred from January 1 of the year following the sheriff's sale to the date of redemption for the preparation of the list of those to be served with notice to redeem and any written documentation used for the preparation of the list, in accordance with section nineteen of this article, with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding the interest, for the expenses incurred for the preparation of the list of those to be
served with notice to redeem required by section nineteen of this article shall not exceed the amount actually incurred by the purchaser or $300, whichever is less: Provided, That the attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by section nineteen of this article; and

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

(b) (1) The notice shall include:

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

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

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

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in preparing the list of those to be served with notice to redeem and any written documentation used for the preparation of the list from January 1 of the year following the sheriff’s sale to the date of the sale to the date of the redemption.

(c) Where, pursuant to section twenty-three of this article, the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in
preparing the list of those to be served with notice to redeem, including written documentation used for preparation of the list, in the form of receipts or other evidence within thirty days from the date of notification by the State Auditor, the sheriff shall refund the amount to the person redeeming and the purchaser is barred from any claim. Where, pursuant to that section, the State Auditor has received from the person redeeming and therefore delivered to the sheriff the sum of $300 plus interest at the rate of one percent per month from January 1 of the year following the sheriff's sale to the date of the sale to the date of redemption, and the purchaser provides the sheriff within thirty days from the date of notification satisfactory proof of the expenses, and the amount of the expenses is less than the amount paid by the person redeeming, the sheriff shall refund the difference to the person redeeming.


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

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

2. Specify the year or years for which payment was made; and

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

(b) The original certificate shall be retained in the files in the State Auditor's office, one copy shall be delivered to the person redeeming, one copy to the sheriff and one copy
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to be retained in the files of the clerk of the county com-
mission. The clerk shall record the certificate in a sepa-
rate volume provided for that purpose.

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

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

§11A-3-27. Deed to purchaser; record.

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

This deed made this ______ day of ________, 20
__, by and between _______________ , State Auditor,
West Virginia, (or by and between __________ , a
commissioner appointed by the circuit court of
_________ County, West Virginia) grantor, and
__________, purchaser, (or _________________, heir,
devicee or assignee of _________________, purchaser),
grantee, witnesseth, that:
Whereas, In pursuance of the statutes in such case made and provided, ______________, Sheriff of __________ County, (or __________, deputy for __________), Sheriff of ___________ County), (or __________, collector of __________ County), did, in the month of ___________, in the year __, sell the tax lien(s) on real estate, hereinafter mentioned and described, for the taxes delinquent thereon for the year (or years) __, and __________, (here insert name of purchaser) for the sum of $____________ that being the amount of purchase money paid to the sheriff, did become the purchaser of the tax lien(s) on such real estate (or on ______ acres, part of the tract or land, or on an undivided __________ interest in such real estate) which was returned delinquent in the name of ____________; and

Whereas, The State Auditor has caused the notice to redeem to be served on all persons required by law to be served therewith; and

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

Now, therefore, the grantor, for and in consideration of the premises and in pursuance of the statutes, doth grant unto ____________, grantee, his or her heirs and assigns forever, the real estate on which the tax lien(s) so purchased existed, situate in the county of ____________, bounded and described as follows: ________________

Witness the following signature: ______________ State Auditor.

(b) Except when ordered to do so, as provided in section twenty-eight of this article, the State Auditor may not execute and deliver a deed more than sixty days after the person entitled to the deed delivers the same and requests the execution of the deed.
(c) For the execution of the deed and for all the recording required by this section, a fee of $50 and the recording and transfer tax expenses shall be charged, to be paid by the grantee upon delivery of the deed. The deed, when duly acknowledged or proven, shall be recorded by the clerk of the county commission in the deed book in the clerk's office, together with any assignment from the purchaser, if one was made, the notice to redeem, the return of service of the notice, the affidavit of publication, if the notice was served by publication, and any return receipts for notices sent by certified mail.

(d) The State Auditor shall appoint employees of his or her office to act as his or her designee to effect the purposes of this section.

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

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

(b) If the State Auditor fails or refuses to execute the deed as required in section twenty-seven of this article, the person requesting the deed may, at any time after such
failure or refusal, but not more than six months after his
or her right to the deed accrued, apply by petition to the
circuit court of the county for an order compelling the
State Auditor to execute the deed or appointing a commis-
sioner to do so. If the person requesting the deed fails to
make an application within the time allowed, he or she
shall lose his or her right to the deed, but his or her rights
against the State Auditor under the provisions of section
sixty-seven of this article shall not be affected. Any deed
executed pursuant to an order of the court or judge shall
have the same force and effect as if executed and delivered
by the State Auditor within the time specified in section
twenty-seven of this article.

(c) Ten days' written notice of every application must be
given to the State Auditor. If, upon the hearing of the
application, the court or judge is of the opinion that the
applicant is not entitled to the notice or deed requested,
the petition shall be dismissed at his or her costs; but if the
court or judge is of the opinion that he or she is entitled to
the notice or deed, then, upon his or her deposit with the
clerk of the circuit court of a sum sufficient to cover the
costs of preparing and serving the notice, unless a deposit
has already been made with the State Auditor, an order
shall be made by the court or judge directing the State
Auditor to prepare and serve the notice or execute the
deed, or appointing a commissioner for the purpose, as the
court or judge shall determine. If it appears to the court
or judge that the failure or refusal of the State Auditor
was without reasonable cause, judgment shall be given
against him or her for the costs of the proceedings; other-
wise the costs shall be paid by the applicant.

(d) Any commissioner appointed under the provisions of
this section shall be subject to the same liabilities as are
provided for the State Auditor. For the preparation of the
notice to redeem, he or she shall be entitled to the same fee
as is provided for the State Auditor. For the execution of
§11A-3-29. One deed for adjoining pieces of real estate within the same tax district.

(a) Whenever one purchaser at the tax sale has purchased tax liens on two or more adjoining pieces of real estate within the same tax district, or undivided interests therein, charged with taxes for the same year, or years, he or she, his or her heirs or assigns may request the State Auditor to execute a separate deed for each adjoining piece of real estate within the same tax district, or undivided interest therein, or separate deeds for some and one deed for the remainder, or one deed for all, as he, she or they may prefer.

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

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

(a) Whenever the purchaser of any tax lien on any real estate sold at a tax sale, his or her heirs or assigns has obtained a deed for the real estate from the State Auditor or from a commissioner appointed to make the deed, he or she or they shall acquire all right, title and interest, in and to the real estate, as was, at the time of the execution and delivery of the deed, vested in or held by any person who was entitled to redeem, unless that person is one who, being required by law to have his or her interest separately assessed and taxed, has done so and has paid all the taxes due on the real estate, or unless the rights of that person are expressly saved by the provisions of section six of this
(b) The tax deed shall be conclusive evidence of the acquisition of title. The title acquired shall relate back to July 1 of the year in which the taxes, for nonpayment of which the tax lien on the real estate was sold, were assessed.

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

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

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

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

(a) The sheriff shall keep in a separate fund the proceeds of all redemptions and sales paid to him or her under the provisions of this chapter, except for those proceeds for which a separate fund is directed by the provisions of section sixty-four of this article. Out of the total proceeds of each sale or redemption he or she shall in the order of priority stated below credit the following amounts, for payment as provided in this section:
(1) To the general county fund, the part that represents costs paid out of the fund for publishing the sheriff’s delinquent and sales list and all other costs incurred by the sheriff pursuant to the provisions of this article;

(2) Surplus proceeds from the sale of tax liens on delinquent lands shall be held by the sheriff for the periods provided for in section ten of this article, and if no application is made within the time specified, the surplus shall be distributed by the sheriff in the manner provided by law for the distribution of property taxes collected by him or her; and

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

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

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

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

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

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

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

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the ... Day of ... 2010.

Governor