WEST VIRGINIA LEGISLATURE

2018 FIRST EXTRAORDINARY SESSION

Enrolled

Senate Bill 1006

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Passed May 21, 2018; in effect from passage]
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AN ACT to amend and reenact §11A-3-19, §11A-3-20, §11A-3-27, §11A-3-55, and §11A-3-59 of the Code of West Virginia, 1931, as amended, all relating generally to purchasers of property tax liens securing a deed; amending the time frame during which a lien purchaser must provide certain information and fees to the Auditor to allow service of notice to redeem; amending the date by which a purchaser must provide notice to the Auditor that a lien purchased at a sheriff's sale was subject to an erroneous assessment or was nonexistent; amending the time frame during which the Auditor must execute and deliver deeds; and amending the time frame during which the Auditor must provide or publish notice to redeem a tax lien sold at a commissioner's sale.

Be it enacted by the Legislature of West Virginia:

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

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

(a) At any time after August 31 of the year following the sheriff's sale, and on or before October 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 §11A-3-21 and §11A-3-22 of this code;

(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 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, 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
Enr. SB 1006

performed an examination 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, executed, 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 October 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.

§11A-3-27. Deed to purchaser; record.

(a) If the real estate described in the notice is not redeemed 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 as provided in §11A-3-18 of this code, the State Auditor or his or her deputy shall upon request of the purchaser make and deliver to the clerk of the county commission, a quitclaim deed for the real estate. The purchaser’s right to a tax deed shall be forfeited if the deed is not requested within the 18-month period set forth in §11A-3-18 of this code. The deed shall provide 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, devisee 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 20 ____, sell the tax lien(s) on real estate, hereinafter mentioned and described, for the taxes delinquent thereon for the year (or years) 20 ____, 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) The State Auditor shall execute and deliver a deed within 120 days after the person entitled to the deed requests the execution of the deed, except when directed to do otherwise under §11A-3-28 of this code.

(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-3-55. Service of notice.

As soon as the deputy commissioner has prepared the notice provided for in §11A-3-54 of this code, he shall cause it to be served upon all persons named on the list generated by the
purchaser pursuant to the provisions of §11A-3-52 of this code. Such notice shall be mailed and, if necessary, published at least 45 days prior to the first day a deed may be issued following the deputy commissioner's sale.

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

If any person entitled to notice is a nonresident of this state, whose address is known to the purchaser, he shall be served at such address by certified mail, return receipt requested. 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 in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for such publication shall be the county in which such real estate is located. If service by publication is necessary, publication shall be commenced when personal service is required as set forth above, and a copy of the notice shall at the same time be sent by certified mail, return receipt requested, to the last known address of the person to be served. The return of service of such notice, and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the auditor in his office, together with any return receipts for notices sent by certified mail.

In addition to the other notice requirements set forth in this section, if the real property subject to the tax lien was classified as Class II property at the time of the assessment, at the same time the deputy commissioner issues the required notices by certified mail, the deputy commissioner shall forward a copy of the notice sent to the delinquent taxpayer by first class mail, addressed to "Occupant", to the physical mailing address for the subject property. The physical mailing address for the subject property shall be supplied by the purchaser of the property,
pursuant to the provisions of §11A-3-52 of this code. Where the mail is not deliverable to an
address at the physical location of the subject property, the copy of the notice shall be sent to any
other mailing address that exists to which the notice would be delivered to an occupant of the
subject property.

§11A-3-59. Deed to purchaser; record.
If the real estate described in the notice is not redeemed within the time specified therein,
but in no event prior to 30 days after notices to redeem have been personally served, or an attempt
of personal service has been made, or such notices have been mailed or, if necessary, published
in accordance with the provisions of §11A-3-55 of this code, following the deputy commissioner’s
sale, the deputy commissioner shall, upon the request of the purchaser, make and deliver to the
person entitled thereto a quitclaim deed for such real estate in form or effect as follows:
This deed, made this _____ day of _________________, 20___, by and between
__________, deputy commissioner of delinquent and nonentered lands of _____________
County, West Virginia, grantor, and __________________, purchaser (or
__________________ heir, devisee, assignee of ________________, purchaser)
grantee, witnesseth, that
Whereas, in pursuance of the statutes in such case made and provided,
__________________, deputy commissioner of delinquent and nonentered lands of
__________________ County, did, on the _____ day of ________________, 20___, sell
the real estate hereinafter mentioned and described for the taxes delinquent thereon for the
year(s) 20____, (or as nonentered land for failure of the owner thereof to have the land entered
on the land books for the years ____________, or as property escheated to the State of West
Virginia, or as waste or unappropriated property) for the sum of $______________________, that
being the amount of purchase money paid to the deputy commissioner, and ____________ (here
insert name of purchaser) did become the purchaser of such real estate, which was returned
delinquent in the name of ______________ (or nonentered in the name of, or escheated from the estate of, or which was discovered as waste or unappropriated property); and

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

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

Now, therefore, the grantor for and in consideration of the premises recited herein, and pursuant to the provisions of Article 3, Chapter 11A of the West Virginia Code, doth grant unto ______________, grantee, his or her heirs and assigns forever, the real estate so purchased, situate in the County of ______________, bounded and described as follows:

___________________________ (here insert description of property)

Witness the following signature:

Deputy Commissioner of Delinquent and Nonentered Lands of ______________ County

Except when ordered as provided in §11A-3-60 of this code, the deputy commissioner shall execute and deliver a deed within 120 days after the purchaser's right to the deed accrued.

For the preparation and execution of the deed and for all the recording required by this section, a fee of $50 and the recording 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 his or her office, together with the assignment from the purchaser, if one was made, the notice to redeem, the return of service of such notice, the affidavit of publication, if the notice was served by publication, and any return receipts for notices sent by certified mail.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

Chairman, Senate Committee

Chairman, House Committee

Originated in the Senate.

In effect from passage.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the Day of June 2018.

Governor
PRESENTED TO THE GOVERNOR

MAY 23 2018

Time 11:08 am