

1 **H. B. 2574**

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3 (By Delegates Morgan, Stephens, Hartman, Eldridge,  
4 Jones, Paxton, Lynch, Howell, Border, Folk  
5 and J. Nelson)

6 [Introduced February 20, 2013; referred to the  
7 Committee on the Judiciary then Finance.]

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10 A BILL to amend and reenact §11A-4-4 of the Code of West Virginia,  
11 1931, as amended, relating to the right of an owner of real  
12 estate to set aside a tax deed; and requiring possession by  
13 the purchaser of delinquent real estate before the statute of  
14 limitations takes effect.

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

16 That §11A-4-4 of the Code of West Virginia, 1931, as amended,  
17 be amended and reenacted to read as follows:

18 **ARTICLE 4. REMEDIES RELATING TO TAX SALES.**

19 **§11A-4-4. Right to set aside deed when one entitled to notice not**  
20 **notified.**

21 (a) If any person entitled to be notified under the provisions  
22 of section twenty-two or fifty-five, article three of this chapter  
23 is not served with the notice as ~~therein~~ required, and does not  
24 have actual knowledge that ~~such~~ notice has been given to others in

1 time to protect his or her interests by redeeming the property, he  
2 or she, or his or her heirs and assigns, may, before the expiration  
3 of three years following the ~~delivery of the deed~~ possession of the  
4 real estate by the purchaser at the tax sale, or his or her  
5 successor in title, institute a civil action to set aside the deed.  
6 No deed ~~shall~~ may be set aside under the provisions of this section  
7 until payment has been made or tendered to the purchaser, or his or  
8 her heirs or assigns, of the amount which would have been required  
9 for redemption, together with any taxes which have been paid on the  
10 property since delivery of the deed, with interest at the rate of  
11 twelve percent per annum.

12 (b) No title acquired pursuant to this article ~~shall~~ may be  
13 set aside in the absence of a showing by clear and convincing  
14 evidence that the person who originally acquired ~~such~~ title failed  
15 to exercise reasonably diligent efforts to provide notice of his or  
16 her intention to acquire ~~such~~ title to the complaining party or his  
17 or her predecessors in title.

18 (c) Upon a preliminary finding by the court that the deed will  
19 be set aside pursuant to this section, ~~such~~ the amounts due shall  
20 be paid within one month of the entry ~~thereof~~ of the court order.  
21 Upon the failure to pay the ~~same~~ amount due within ~~said period of~~  
22 the required time, the court shall upon the request of the  
23 purchaser, enter judgment dismissing the action with prejudice.

NOTE: The purpose of this bill is to require a purchaser of real estate at a tax sale to take possession of the real estate, before the statute of limitations within which the owner may seek to set aside the deed starts tolling.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.