

H. B. 2087

(By Delegates Manchin, Walters and Caputo)

[Introduced January 16, 2015; referred to the

Committee on Energy then the Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §11A-3-19, §11A-3-21 and §11A-3-23 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11A-3-23a; to amend and reenact §11A-3-52, §11A-3-54 and §11A-3-56 of said code; to amend said code by adding thereto a new section, designated §11A-3-58a; and to amend and reenact §11A-4-4 of said code, all relating to permitting surface owners to purchase the mineral interests that lay below the property when the mineral interest becomes subject to a tax lien; establishing procedures; requiring notice; establishing the purchase prices; establishing nonrefundable \$20 administrative fees; providing a procedure if more than one surface owner seeks to purchase the delinquent mineral interest; modifying notices to redeem that are sent to property owners; and providing remedies relating to tax sales.

Be it enacted by the Legislature of West Virginia:

That §11A-3-19, §11A-3-21 and §11A-3-23 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated

1 §11A-3-23a; that §11A-3-52, §11A-3-54 and §11A-3-56 of said code be amended and reenacted;
2 that said code be amended by adding thereto a new section, designated §11A-3-58a; and that
3 §11A-4-4 of said code be amended and reenacted, all to read as follows:

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

6 **§11A-3-19. What purchaser must do before the deed can be secured.**

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

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

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

15 (3) Provide the State Auditor with a list of any additional expenses incurred after January 1
16 of the year following the sheriff's sale for the preparation of the list of those to be served with notice
17 to redeem including proof of the additional expenses in the form of receipts or other evidence of
18 reasonable legal expenses incurred for the services of any attorney who has performed an
19 examination of the title to the real estate and rendered written documentation used in the preparation
20 of the list of those to be served with the notice to redeem. However, for an interest in real estate
21 identified in subsection (b) of this section the purchaser, or other authorized person, of the property
22 shall pay the reasonable costs related to preparing the list of those served with notice to redeem,

1 other than surface owners, as provided by subdivision (3), subsection (a), section twenty-three of this
2 article;

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

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

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

9 (b) For an interest in real estate subject to the tax lien that includes minerals, but not an
10 interest in the surface other than an interest in the surface for the purpose of developing the minerals,
11 the list shall include the last known name and mailing address of the taxpayer who receives a tax
12 ticket for the surface property shown on the tax maps identified in subsection (e), section seven,
13 article one-c, chapter eleven of this code that lie above the mineral tract. If these requirements are
14 not met, all the benefits of the purchase will be lost. However, no deed to a bona fide purchaser for
15 value from a purchaser, or a surface owner substituted for a purchaser, may be set aside for failure
16 of the purchaser to comply with this subsection, but this limitation does not affect any other remedies
17 at law.

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

22 ~~(c)~~ (d) Whenever any certificate given by the sheriff for a tax lien on any land, or interest in

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

7 **§11A-3-21. Notice to redeem.**

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

10 To _____.

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

22 Amount equal to the taxes, interest, and charges due on the date of sale, with interest to

1 March 31, 20 _____ \$_____.

2 Amount of subsequent years taxes paid on the property, since the sale, with interest to March
3 31, 20 ____ \$_____

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

7 Amount paid for other statutory costs (describe) _____
8 \$_____

9 Total \$_____

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

12 NOTE: If you have received this notice because you are the owner of an interest in the
13 surface overlaying a mineral interest that was returned delinquent, you may pay the clerk twice the
14 amount identified above, plus a nonrefundable \$20 administrative fee, before March 1, 20 ____ . If
15 you pay the required amount and the property is then redeemed, that amount you paid, less the
16 administrative fee, will be refunded to you. If you pay the required amount and the property is not
17 redeemed, you will be substituted for the purchaser of the tax lien and you may proceed to obtain a
18 deed for the property. If you and one or more additional surface owners each pay the appropriate
19 amount, all the surface owners who have made payment shall submit, by April 7, 20____, an
20 agreement dividing the real estate according to their proportionate shares or any other method or
21 formula agreed to among all of you. If an agreement is not filed, the clerk shall refund the moneys
22 tendered by the surface owners, less the administrative fees, and none of you will be substituted for

1 the purchaser of the tax lien.

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

3 _____

4 State Auditor, State of West Virginia

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

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

13 (a) After the sale of any tax lien on any real estate pursuant to section five of this article, the
14 owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax
15 lien on the real estate was purchased by an individual may redeem at any time before a tax deed is
16 issued for the real estate. In order to redeem, he or she shall pay to the State Auditor the following
17 amounts:

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

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

22 (3) Any additional expenses incurred from January 1 of the year following the sheriff's sale

1 to the date of redemption for the preparation of the list of those to be served with notice to redeem
2 and any written documentation used for the preparation of the list, with interest at the rate of one
3 percent per month from the date of payment for reasonable legal expenses incurred for the services
4 of an attorney who has performed an examination of the title to the real estate and rendered written
5 documentation used for the preparation of the list: *Provided*, That the maximum amount the owner
6 or other authorized person shall pay, excluding the interest, for the expenses incurred for the
7 preparation of the list of those to be served required by section nineteen of this article is \$300, plus
8 any costs required by subsection (b), section nineteen of this article: *Provided however*, That the
9 attorney may only charge a fee for legal services actually performed and must certify that he or she
10 conducted an examination to determine the list of those to be served required by section nineteen of
11 this article; and

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

13 (b) Where the State Auditor has not received from the purchaser satisfactory proof of the
14 expenses incurred in preparing the notice to redeem, and any written documentation used for the
15 preparation of the list of those to be served with notice to redeem, including the certification required
16 in subdivision (3), subsection (a) of this section, incident thereto, in the form of receipts or other
17 evidence of legal expenses, incurred as provided in section nineteen of this article, the person
18 redeeming shall pay the State Auditor the sum of \$300 plus interest at the rate of one percent per
19 month from January 1 of the year following the sheriff's sale for disposition by the sheriff pursuant
20 to ~~the provisions of~~ sections ten, twenty-four, twenty-five and thirty-two of this article.

21 (c) The person redeeming shall be given a receipt for the payment and the written opinion
22 or report used for the preparation of the list of those to be served with notice to redeem required by

1 section nineteen of this article.

2 (d) Any person who, by reason of the fact that no provision is made for partial redemption
3 of the tax lien on real estate purchased by an individual, is compelled in order to protect himself or
4 herself to redeem the tax lien on all of the real estate when it belongs, in whole or in part, to some
5 other person, shall have a lien on the interest of that other person for the amount paid to redeem the
6 interest. He or she shall lose his or her right to the lien, however, unless within thirty days after
7 payment he or she files with the clerk of the county commission his or her claim in writing against
8 the owner of the interest, together with the receipt provided in this section. The clerk shall docket
9 the claim on the judgment lien docket in his or her office and properly index the claim. The lien may
10 be enforced as other judgment liens are enforced.

11 (e) Before a tax deed is issued, the county clerk may accept, on behalf of the State Auditor,
12 the payment necessary to redeem any real estate encumbered with a tax lien and write a receipt. The
13 amount of the payment necessary to redeem any real estate encumbered with a tax lien shall be
14 provided by the State Auditor and the State Auditor shall update the required payments plus interest
15 at least monthly.

16 (f) On or before the tenth day of each month, the county clerk shall deliver to the State
17 Auditor the redemption money paid and the name and address of the person who redeemed the
18 property on a form prescribed by the State Auditor.

19 **§11A-3-23a. Surface owner substitution for purchaser.**

20 (a) If the real estate interest subject to a tax lien is an interest that includes minerals, but does
21 not include an interest in the surface other than an interest for the purpose of developing the
22 minerals, then prior to March 31 of the year following the sale an owner of record of the surface

1 above the property subject to the tax lien being sold may pay the clerk: (1) Twice the amount that
2 would be required for redemption pursuant to section twenty-three of this article; and (2) a
3 nonrefundable \$20 administrative fee. The clerk shall issue the surface owner a certificate of
4 substitution and send a copy to the purchaser. If more than one surface owner makes this payment
5 to the clerk, the clerk shall issue each a certificate of substitution for each and send copies of the
6 certificates of substitution to the others in addition to the purchaser. If a purchaser can demonstrate
7 to the clerk that he or she is related to the owner of the property in whose name it is listed, then the
8 clerk may, in his or her sole discretion, cancel the certificates of substitution and refund all moneys
9 paid by the surface owner or owners, less the \$20 administrative fee.

10 (b) If the property is redeemed, the clerk shall refund the moneys paid, less the administrative
11 fees.

12 (c) If the property is not redeemed, and if only one surface owner has received a certificate
13 of substitution, then the clerk shall send the amount paid by the surface owner to the purchaser, less
14 the \$20 administrative fee, and record the certificate of substitution. That surface owner enjoys the
15 full rights and duties of the purchaser.

16 (d) If more than one surface owner pays the clerk the appropriate amount the surface owners
17 shall submit an agreement dividing the property according to their proportionate shares, or another
18 mutually agreeable method or formula approved by all of them, by April 15 of the year following
19 the sale of the lien. No deed may be issued before April 15 of the year following the sale. The
20 interest of an owner of a surface tract shall be equal to the acreage stated on documents of record
21 even if the owner only owns an undivided interest. However, if more than one owner of an undivided
22 interest in the same tract pays the clerk the appropriate amount, his or her share shall be the total

1 acreage of the undivided tract divided by the number of owners of the tract who have also paid the
2 clerk. If an agreement is filed, then the clerk shall make an amended certificate dividing the property
3 according to their respective interests and refund any remaining moneys paid by them according to
4 their agreed interests. If no agreement is filed, the clerk shall refund the moneys paid to the surface
5 owners, less the \$20 administrative fees, and the original purchaser is returned to his or her original
6 position.

7 **§11A-3-52. What purchaser must do before ~~he can secure~~ securing a deed.**

8 (a) Within forty-five days following the approval of the sale by the auditor pursuant to section
9 fifty-one of this article, the purchaser, his or her heirs or assigns, in order to secure a deed for the real
10 estate purchased, shall:

11 (1) Prepare a list of those to be served with notice to redeem and request the deputy
12 commissioner to prepare and serve the notice as provided in sections fifty-four and fifty-five of this
13 article;

14 (2) When the real property subject to the tax lien was classified as Class II property, provide
15 the deputy commissioner with the actual mailing address of the property that is subject to the tax lien
16 or liens purchased; and

17 (3) Deposit, or offer to deposit, with the deputy commissioner a sum sufficient to cover the
18 costs of preparing and serving the notice.

19 (b) If the purchaser fails to fulfill the requirements set forth in ~~paragraph~~ subsection (a) of
20 this section, the purchaser shall lose all the benefits of his or her purchase.

21 (c) After the requirements of ~~paragraph~~ subsection (a) of this section have been satisfied, the
22 deputy commissioner may then sell the property in the same manner as he or she sells lands which

1 have been offered for sale at public auction but which remain unsold after such auction, as provided
2 in section forty-eight of this article.

3 (d) For an interest in real estate subject to the tax lien or liens that includes minerals but does
4 not include an interest in the surface, except an interest for the purpose of developing the minerals,
5 the list shall include the last known name and mailing address of the taxpayer known to the sheriff
6 to which the sheriff is required to send a tax ticket pursuant to section eight, article one of this
7 chapter for all tracts of surface property shown on the tax maps, provided in subsection (e), section
8 seven, article one-c, chapter eleven of this code, that lie above the mineral tract subject to the tax lien
9 or liens purchased. No deed to a bona fide purchaser for value from a purchaser or a surface owner
10 substituted for a purchaser may be set aside for failure of the purchaser to comply with this
11 subsection. This limitation does not affect any other remedies at law.

12 ~~(d)~~ (e) If the person requesting preparation and service of the notice is an assignee of the
13 purchaser, he or she shall, at the time of the request, file with the deputy commissioner a written
14 assignment to him or her of the purchaser's rights, executed, acknowledged and certified in the
15 manner required to make a valid deed.

16 **§11A-3-54. Notice to redeem.**

17 Whenever ~~the provisions of~~ section fifty-two of this article ~~have~~ has been complied with, the
18 deputy commissioner shall thereupon prepare a notice in form or effect as follows:

19 To _____

20 You will take notice that _____, the purchaser (or _____, the
21 assignee, heir or devisee of _____, the purchaser) of the following real estate,
22 _____, (here describe the real estate sold) located in _____, (here

1 name the city, town or village in which the real estate is situated or, if not within a city, town or
 2 village, give the district and a general description) which was _____ (here put
 3 whether the property was returned delinquent or nonentered) in the name of _____,
 4 and was sold by the deputy commissioner of delinquent and nonentered lands of
 5 _____ County at the sale for delinquent taxes (or nonentry) on the _____ day of
 6 _____, 1920____, has requested that you be notified that a deed for such real estate
 7 will be made to him or her on or after the _____ day of _____, 1920____, as provided
 8 by law, unless before that day you redeem such real estate. The amount you will have to pay to
 9 redeem on the _____ day of _____, 20__ will be as follows:

10 Amount equal to the taxes, interest and charges due on the date of sale, with interest to
 11 _____\$ _____

12 Amount of taxes paid on the property, since the sale, with interest to _____
 13 \$ _____

14 Amount paid for title examination and preparation of list of those to be served, and for
 15 preparation and service of the notice with interest to _____ \$ _____

16 Amount paid for other statutory costs (describe)
 17 _____
 18 _____ \$ _____

19 Total \$ _____

20 You may redeem at any time before _____ by paying the above total less any
 21 unearned interest.

22 NOTE: If you are receiving this notice because you are the owner of an interest in the surface

1 overlaying a mineral interest which was returned delinquent, you may, before the above date, pay
 2 the deputy commissioner: (1) Twice the amount identified above; (2) the amount identified above
 3 or \$3,000, whichever is less; and (3) a nonrefundable \$20 administrative fee. If you pay the required
 4 amount and the property is redeemed, the amount you paid, less the administrative fee, will be
 5 refunded. If you pay the required amount and the property is not redeemed, you will be substituted
 6 for the purchaser of the tax lien and may proceed to obtain a deed for the property. If you do so and
 7 if one or more additional surface owners do so, then the surface owners must submit an agreement
 8 dividing the property according to their proportionate shares. If an agreement is not filed, the deputy
 9 commissioner shall refund the moneys tendered by the surface owners, less the administrative fees,
 10 and the original purchaser will be returned to his or her original rights and duties.

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

12 _____

13 Deputy Commissioner of Delinquent

14 and Nonentered Lands

15 _____ County,

16 State of West Virginia

17 The deputy commissioner for his or her service in preparing the notice shall receive a fee of
 18 \$10 for the original and \$2 for each copy required. Any costs which must be expended in addition
 19 thereto for publication, or service of such notice in the manner provided for serving process
 20 commencing a civil action, or for service of process by certified mail, shall be charged by the deputy
 21 commissioner. All costs provided by this section shall be included as redemption costs and included
 22 in the notice described herein.

1 **§11A-3-56. Redemption from purchase; receipt; list of redemptions; lien; lien of person**
2 **redeeming interest of another; record.**

3 (a) After the sale of any tax lien on any real estate pursuant to section forty-five or forty-eight
4 of this article, the owner of, or any other person who was entitled to pay the taxes on, any real estate
5 for which a tax lien thereon was purchased by an individual, may redeem at any time before a tax
6 deed is issued therefor. In order to redeem, he or she must pay to the deputy commissioner the
7 following amounts: (1) An amount equal to the taxes, interest and charges due on the date of the
8 sale, with interest thereon at the rate of one percent per month from the date of sale; (2) all other
9 taxes thereon, which have since been paid by the purchaser, his or her heirs or assigns, with interest
10 at the rate of one percent per month from the date of payment; (3) such additional expenses as may
11 have been incurred in preparing the list of those to be served with notice to redeem, and any title
12 examination incident thereto, with interest at the rate of one percent per month from the date of
13 payment, but the amount he or she shall be required to pay, excluding said interest, for such expenses
14 incurred for the preparation of the list of those to be served with notice to redeem required by section
15 fifty-two of this article, and any title examination incident thereto, shall not exceed \$200 and, if the
16 real estate is subject to subsection (d), section fifty-two of this article, the reasonable cost for
17 determining the location of all tracts of surface property shown on the tax maps identified in
18 subsection (e), section seven, article one-c, chapter eleven of this code that lie above the real estate
19 subject to the tax lien or liens purchased not to exceed the actual amount incurred for the preparation
20 of the list of those to be served with the notice to redeem other than the surface owner; (4) all
21 additional statutory costs paid by the purchaser; and (5) the deputy commissioner's fee and
22 commission as provided by section sixty-six of this article. Where the deputy commissioner has not

1 received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to
2 redeem, and any examination of title incident thereto, in the form of receipts or other evidence
3 thereof, the person redeeming shall pay the deputy commissioner the sum of \$200 plus interest
4 thereon at the rate of one percent per month from the date of the sale for disposition pursuant to ~~the~~
5 ~~provisions of~~ sections fifty-seven, fifty-eight and sixty-four of this article. Upon payment to the
6 deputy commissioner of those and any other unpaid statutory charges required by this article, and
7 of any unpaid expenses incurred by the sheriff, the auditor and the deputy commissioner in the
8 exercise of their duties pursuant to this article, the deputy commissioner shall prepare an original and
9 five copies of the receipt for the payment and shall note on said receipts that the property has been
10 redeemed. The original of such receipt shall be given to the person redeeming. The deputy
11 commissioner shall retain a copy of the receipt and forward one copy each to the sheriff, assessor,
12 the auditor and the clerk of the county commission. The clerk shall endorse on the receipt the fact
13 and time of such filing and note the fact of redemption on his or her record of delinquent lands.

14 (b) Any person who, by reason of the fact that no provision is made for partial redemption
15 of the tax lien on real estate purchased by an individual, is compelled in order to protect himself or
16 herself to redeem the tax lien on all of such real estate when it belongs, in whole or in part, to some
17 other person, shall have a lien on the interest of such other person for the amount paid to redeem
18 such interest. He or she shall lose his or her right to the lien, however, unless within thirty days after
19 payment he or she shall file with the clerk of the county commission his or her claim in writing
20 against the owner of such interest, together with the receipt provided ~~for~~ in this section. The clerk
21 shall docket the claim on the judgment lien docket in his or her office and properly index the same.
22 Such lien may be enforced as other judgment liens are enforced.

1 **§11A-3-58a. Surface owner substitution for purchaser.**

2 (a) If the real estate interest subject to a tax lien is a mineral interest, but does not include an
3 interest in the surface other than an interest for the purpose of developing the minerals, then within
4 thirty days after notices to redeem have been served, or an attempt of personal service has been
5 made, the notices have been mailed or, if necessary, published in accordance with section fifty-five
6 of this article, following the deputy commissioner's sale, a surface owner above the mineral interest
7 may pay to the deputy commissioner: (1) Twice the amount that would be required for redemption;
8 (2) the amount that would be required for redemption or \$3,000, whichever is less; and (3) a
9 nonrefundable \$20 administrative fee. The deputy commissioner shall issue the surface owner a
10 certificate of substitution and send a copy to the purchaser. If more than one surface owner of record
11 submits payment to the deputy commissioner, the deputy commissioner shall issue each a certificate
12 of substitution and send copies of the certificates of substitution to the others in addition to the
13 purchaser.

14 (b) If the property is redeemed, the deputy commissioner shall refund the moneys paid by
15 the surface owners, less the administrative fees.

16 (c) If the property is not redeemed, and if only one surface owner has received a certificate
17 of substitution, then the deputy commissioner shall send the amount paid by the surface owner to the
18 purchaser and record the certificate of substitution. The surface owner is substituted and has the full
19 rights and duties of the purchaser.

20 (d) If more than one surface owner submits payment, before an additional fifteen days, the
21 surface owners must submit an agreement dividing the real estate according to their proportionate
22 share. The interest of an owner of a surface tract shall be equal to the acreage stated on documents

1 of record even if the owner only owns an undivided interest. However, if more than one owner of
 2 an undivided interest submits payment, their proportionate shares are the total acreage of the
 3 undivided tract divided by the number of owners of the tract who pay in. If no agreement is filed,
 4 then the deputy commissioner shall refund their moneys, less the administrative fees, and the original
 5 purchaser is returned to his or her original position. If an agreement is filed, then the deputy
 6 commissioner shall make an amended certificate showing the division according to their interests,
 7 the deputy commissioner shall send the purchaser twice the amount required for redemption, and
 8 divide the remaining money paid by all surface owners according to their agreed interests.

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

10 **§11A-4-4. Right to set aside deed when one entitled to notice not notified.**

11 (a) If any person entitled to be notified under ~~the provisions of~~ section twenty-two or
 12 fifty-five, article three of this chapter is not served with the notice as therein required, and does not
 13 have actual knowledge that such notice has been given to others in time to protect his or her interests
 14 by redeeming the property, or is exercising rights as a surface owner pursuant to sections
 15 twenty-three-a or fifty-eight-a, article three of this chapter, he or she, his or her heirs and assigns,
 16 may, before the expiration of three years following the delivery of the deed, institute a civil action
 17 to set aside the deed. No deed shall be set aside under ~~the provisions of~~ this section until payment
 18 has been made or tendered to the purchaser, or his or her heirs or assigns, of the amount which would
 19 have been required for redemption or the exercise of rights as a surface owner pursuant to sections
 20 twenty-three-a or fifty-eight-a, article three of this chapter, together with any taxes which have been
 21 paid on the property since delivery of the deed, with interest at the rate of twelve percent per annum.

22 (b) No title acquired pursuant to this article shall be set aside in the absence of a showing by

1 clear and convincing evidence that the person who originally acquired such title failed to exercise
2 reasonably diligent efforts to provide notice of his or her intention to acquire such title to the
3 complaining party or his or her predecessors in title.

4 (c) Upon a preliminary finding by the court that the deed will be set aside pursuant to this
5 section, such amounts shall be paid within one month of the entry thereof. Upon the failure to pay
6 the same within said period of time, the court shall upon the request of the purchaser, enter judgment
7 dismissing the action with prejudice.

NOTE: The purpose of this bill is to permit surface owners to purchase the mineral interests that lay below the property when the mineral interest becomes subject to a tax lien. The bill establishes procedures to be followed. The bill requires notice; establishing the purchase prices. The bill establishes certain nonrefundable \$20 administrative fees. The bill provides a procedure if more than one surface owner seeks to purchase the delinquent mineral interest. The bill modifies notices to redeem that are sent to property owners. The bill provides remedies relating to tax sales.

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

§11A-3-23a and §11A3-58a are new; therefore, they have been completely underscored.