

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 369**

BY SENATORS SYPOLT, MILLER, BOSO, MARONEY AND

SMITH

[Originating in the Committee on Energy, Industry,  
and Mining; reported on March 25, 2017]



1 A BILL to amend and reenact §11A-3-19, §11A-3-21, §11A-3-23, §11A-3-52, §11A-3-54 and  
2 §11A-3-56 of the Code of West Virginia, 1931, as amended; to amend said code by adding  
3 thereto four new sections, designated §11A-3-23a, §11A-3-23b, §11A-3-58a and §11A-3-  
4 58b; and to amend and reenact §11A-4-4 of said code, all relating to permitting surface  
5 owners to purchase the mineral interests that lay below the property when the mineral  
6 interest becomes subject to a tax lien; permitting mineral owners to purchase the surface  
7 interest that lies above the mineral interest when the surface tract become subject to  
8 establishing procedures; requiring notice; establishing the purchase prices; establishing  
9 nonrefundable \$20 administrative fee; providing a procedure if more than one surface  
10 owner seeks to purchase the delinquent mineral interest; modifying notices to redeem that  
11 are sent to property owners; and providing remedies relating to tax sales.

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

1 That §11A-3-19, §11A-3-21, §11A-3-23, 11A-3-52, §11A-3-54 and §11A-3-56 of the Code  
2 of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by  
3 adding thereto four new sections, designated §11A-3-23a, §11A-3-23b, §11A-3-58a and §11A-3-  
4 58b; and that §11A-4-4 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-3-19. What purchaser must do before the deed can be secured.**

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

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

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

9 (3) Provide the State Auditor with a list of any additional expenses incurred after January  
10 1 of the year following the sheriff's sale for the preparation of the list of those to be served with  
11 notice to redeem including proof of the additional expenses in the form of receipts or other  
12 evidence of reasonable legal expenses incurred for the services of any attorney who has  
13 performed an examination of the title to the real estate and rendered written documentation used  
14 in the preparation of the list of those to be served with the notice to redeem. However, for an  
15 interest in real estate identified in subsection (b) of this section, and for an interest in real estate  
16 identified in subsection (c) of this section the purchaser, or other authorized person, of the  
17 property shall pay the reasonable costs related to preparing the list of those served with notice to  
18 redeem, other than surface owners, as provided by subdivision (3), subsection (a), section twenty-  
19 three of this article;

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

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

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

26 (b) For an interest in real estate subject to the tax lien that includes minerals, but not an  
27 interest in the surface other than for developing the minerals, the list shall include the last known  
28 name and mailing address of the taxpayer who receives a tax ticket for the surface property shown  
29 on the tax maps identified in subsection (e), section seven, article one-c, chapter eleven of this  
30 code that lie above the mineral tract. If these requirements are not met, all the benefits of the  
31 purchase will be lost. However, no deed to a bona fide purchaser for value from a purchaser, or

32 a surface owner substituted for a purchaser, may be set aside for failure of the purchaser to  
33 comply with this subsection, but this limitation does not affect any other remedies at law.

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

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

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

**§11A-3-21. Notice to redeem.**

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

3 To \_\_\_\_\_.

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

15           Amount equal to the taxes, interest, and charges due on the date of sale, with interest to  
16 March 31, 20 \_\_\_\_\_ ..... \$\_\_\_\_\_.

17           Amount of subsequent years taxes paid on the property, since the sale, with interest to  
18 March 31, 20 \_\_\_\_ ..... \$\_\_\_\_\_

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

22           Amount paid for other statutory costs (describe) \_\_\_\_\_ .....  
23 \$\_\_\_\_\_

24           Total ..... \$\_\_\_\_\_

25           You may redeem at any time before March 31, 20 \_\_\_\_\_, by paying the above  
26 total less any unearned interest.

27           NOTE: If you have received this notice because you are the owner of an interest in the  
28 surface overlaying a mineral interest or an owner of a mineral interest that the above surface tract  
29 that was returned delinquent, you may pay the clerk twice the amount identified above, plus a

30 nonrefundable \$20 administrative fee, before March 1, 20 \_\_\_\_ . If you pay the required amount  
31 and the property is then redeemed, that amount you paid, less the administrative fee, will be  
32 refunded to you. If you pay the required amount and the property is not redeemed, you will be  
33 substituted for the purchaser of the tax lien and you may proceed to obtain a deed for the property.  
34 If you and one or more additional surface owners or mineral owners each pay the appropriate  
35 amount, all the surface owners or mineral owners who have made payment shall submit, by April  
36 1, 20 \_\_\_\_ , an agreement dividing the real estate according to their proportionate shares or any  
37 other method or formula agreed to among all of you. If an agreement is not filed, the clerk shall  
38 refund the moneys tendered by the surface owners or mineral owners, less the administrative  
39 fees, and none of you will be substituted for the purchaser of the tax lien.

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

**§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 pursuant to section five of this article,  
2 the owner of, or any other person who was entitled to pay the taxes on, any real estate for which  
3 a tax lien on the real estate was purchased by an individual may redeem at any time before a tax  
4 deed is issued for the real estate. In order to redeem, he or she shall pay to the State Auditor the  
5 following amounts:

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

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

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

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

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



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

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

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

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

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

1 (a) If the real estate interest subject to a tax lien is an interest that includes minerals, but  
2 does not include an interest in the surface other than an interest for the purpose of developing  
3 the minerals, then prior to March 31 of the year following the sale an owner of record of the surface  
4 above the property subject to the tax lien being sold may pay the clerk: (1) The amount that would  
5 be required for redemption pursuant to section twenty-three of this article; (2) the lesser of either

6 the amount identified above or \$3,000; and (3) a nonrefundable \$20 administrative fee. The clerk  
7 shall issue the surface owner a certificate of substitution and send a copy to the purchaser. If  
8 more than one surface owner makes this payment to the clerk, the clerk shall issue each a  
9 certificate of substitution for each and send copies of the certificates of substitution to the others  
10 in addition to the purchaser.

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

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

17 (d) If more than one surface owner pays the clerk the appropriate amount the surface  
18 owners shall submit an agreement dividing the property according to their proportionate shares,  
19 or another mutually agreeable method or formula approved by all of them, by April 15 of the year  
20 following the sale of the lien. No deed may be issued before April 15 of the year following the  
21 sale. The interest of an owner of a surface tract shall be equal to the acreage stated on documents  
22 of record even if the owner only owns an undivided interest. However, if more than one owner of  
23 an undivided interest in the same tract pays the clerk the appropriate amount, his or her share  
24 shall be the total acreage of the undivided tract divided by the number of owners of the tract who  
25 have also paid the clerk. If an agreement is filed, then the clerk shall make an amended certificate  
26 dividing the property according to their respective interests and refund any remaining moneys  
27 paid by them according to their agreed interests. If no agreement is filed, the clerk shall refund  
28 the moneys paid to the surface owners, less the \$20 administrative fees, and the original  
29 purchaser is returned to his or her original position.

30 (e) Any purchaser under this code section is prohibited from transferring the surface or  
31 mineral estate once the fee is re-established.

32 (f) If any provision of this subsection or the application to any person or circumstance shall  
33 be held invalid, such invalidity shall not affect the provisions or applications of this article which  
34 can be given effect without the invalid provisions or application, and to this end the provisions of  
35 this article are declared to be severable.

**§11A-3-23b. Mineral owner substitution for purchaser.**

1 (a) If the real estate interest subject to a tax lien is an interest that includes minerals, but  
2 does not include an interest in the surface other than an interest for the purpose of developing  
3 the minerals, then prior to March 31 of the year following the sale an owner of record of the surface  
4 above the property subject to the tax lien being sold may pay the clerk: (1) The amount that would  
5 be required for redemption pursuant to section twenty-three of this article; (2) the lesser of either  
6 the amount identified above or \$3,000; and (3) a nonrefundable \$20 administrative fee. The clerk  
7 shall issue the surface owner a certificate of substitution and send a copy to the purchaser. If  
8 more than one surface owner makes this payment to the clerk, the clerk shall issue each a  
9 certificate of substitution for each and send copies of the certificates of substitution to the others  
10 in addition to the purchaser.

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

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

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

22 of record even if the owner only owns an undivided interest. However, if more than one owner of  
23 an undivided interest in the same tract pays the clerk the appropriate amount, his or her share  
24 shall be the total acreage of the undivided tract divided by the number of owners of the tract who  
25 have also paid the clerk. If an agreement is filed, then the clerk shall make an amended certificate  
26 dividing the property according to their respective interests and refund any remaining moneys  
27 paid by them according to their agreed interests. If no agreement is filed, the clerk shall refund  
28 the moneys paid to the surface owners, less the \$20 administrative fees, and the original  
29 purchaser is returned to his or her original position.

30 (e) Any purchaser under this code section is prohibited from transferring the surface or  
31 mineral estate once the fee is re-established.

32 (f) If any provision of this subsection or the application to any person or circumstance shall  
33 be held invalid, such invalidity shall not affect the provisions or applications of this article which  
34 can be given effect without the invalid provisions or application, and to this end the provisions of  
35 this article are declared to be severable.

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

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

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

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

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

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

14 (c) After the requirements of ~~paragraph~~ subsection (a) of this section have been satisfied,  
15 the deputy commissioner may then sell the property in the same manner as he or she sells lands  
16 which have been offered for sale at public auction but which remain unsold after such auction, as  
17 provided in section forty-eight of this article.

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

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

**§11A-3-54. Notice to redeem.**

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

3 To \_\_\_\_\_

4 You will take notice that \_\_\_\_\_, the purchaser (or \_\_\_\_\_, the  
5 assignee, heir or devisee of \_\_\_\_\_, the purchaser) of the following real estate,  
6 \_\_\_\_\_, (here describe the real estate sold) located in \_\_\_\_\_, (here  
7 name the city, town or village in which the real estate is situated or, if not within a city, town or  
8 village, give the district and a general description) which was \_\_\_\_\_ (here put  
9 whether the property was returned delinquent or nonentered) in the name of  
10 \_\_\_\_\_, and was sold by the deputy commissioner of delinquent and nonentered  
11 lands of \_\_\_\_\_ County at the sale for delinquent taxes (or nonentry) on the \_\_\_\_\_  
12 day of \_\_\_\_\_, 19 20, has requested that you be notified that a deed for such  
13 real estate will be made to him or her on or after the \_\_\_\_\_ day of \_\_\_\_\_, 19 20,  
14 as provided by law, unless before that day you redeem such real estate. The amount you will  
15 have to pay to redeem on the \_\_\_\_\_ day of \_\_\_\_\_, 19 20, will be as follows:

16 Amount equal to the taxes, interest and charges due on the date of sale, with interest to  
17 \_\_\_\_\_ .....\$ \_\_\_\_\_

18 Amount of taxes paid on the property, since the sale, with interest to \_\_\_\_\_  
19 .....\$ \_\_\_\_\_

20 Amount paid for title examination and preparation of list of those to be served, and for  
21 preparation and service of the notice with interest to \_\_\_\_\_ .....\$ \_\_\_\_\_

22 Amount paid for other statutory costs (describe)  
23 \_\_\_\_\_  
24 \_\_\_\_\_ .....\$ \_\_\_\_\_

25 Total .....\$ \_\_\_\_\_

26 You may redeem at any time before \_\_\_\_\_ by paying the above total less  
27 any unearned interest.

28 NOTE: If you are receiving this notice because you are the owner of an interest in the  
29 surface overlaying a mineral interest or a mineral tract lying underneath a surface tract which was

30 returned delinquent, you may, before the above date, pay the deputy commissioner: (1) The  
31 amount identified above; (2) the lesser of either the amount identified above or \$3,000; and (3) a  
32 nonrefundable \$20 administrative fee. If you pay the required amount and the property is  
33 redeemed, the amount you paid, less the administrative fee, will be refunded. If you pay the  
34 required amount and the property is not redeemed, you will be substituted for the purchaser of  
35 the tax lien and may proceed to obtain a deed for the property. If you do so and if one or more  
36 additional surface owners or mineral owners do so, then the surface owners or mineral owners  
37 must submit an agreement dividing the property per their proportionate shares. If an agreement  
38 is not filed, the deputy commissioner shall refund the moneys tendered by the surface owners or  
39 mineral owners, less the administrative fees, and the original purchaser will be returned to his or  
40 her original rights and duties.

41 Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 20\_\_\_\_\_.

42 \_\_\_\_\_ Deputy Commissioner of Delinquent and Nonentered Lands  
43 \_\_\_\_\_ County,  
44 State of West Virginia

45 \_\_\_\_\_ County,  
46 State of West Virginia

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

**§11A-3-56. 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 pursuant to section forty-five or forty-  
2 eight of this article, the owner of, or any other person who was entitled to pay the taxes on, any  
3 real estate for which a tax lien ~~thereon~~ was purchased by an individual, may redeem at any time  
4 before a tax deed is issued ~~therefor~~. In order to redeem, he or she must pay to the deputy  
5 commissioner the following amounts: (1) An amount equal to the taxes, interest and charges due  
6 on the date of the sale, with interest ~~thereon~~ at the rate of one percent per month from the date  
7 of sale; (2) all other taxes thereon, which have since been paid by the purchaser, his or her heirs  
8 or assigns, with interest at the rate of one percent per month from the date of payment; (3) such  
9 additional expenses as may have been incurred in preparing the list of those to be served with  
10 notice to redeem, and any title examination incident thereto, with interest at the rate of one percent  
11 per month from the date of payment, but the amount he or she shall be required to pay, excluding  
12 said interest, for such expenses incurred for the preparation of the list of those to be served with  
13 notice to redeem required by section fifty-two of this article, and any surface title examination  
14 ~~incident thereto~~, required shall not exceed ~~\$200~~ \$300 or \$600 for a required mineral title  
15 examination, and if the real estate is subject to subsection (d), section fifty-two of this article, the  
16 reasonable cost for determining the location of all tracts of surface property shown on the tax  
17 maps identified in subsection (e), section seven, article one-c, chapter eleven of this code that lie  
18 above the real estate subject to the tax lien or liens purchased; (4) all additional statutory costs  
19 paid by the purchaser; and (5) the deputy commissioner's fee and commission as provided by  
20 section sixty-six of this article. Where the deputy commissioner has not received from the  
21 purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, and any  
22 examination of title incident thereto, in the form of receipts or other evidence ~~thereof~~, the person  
23 redeeming shall pay the deputy commissioner the sum of \$200 plus interest ~~thereon~~ at the rate  
24 of one percent per month from the date of the sale for disposition ~~pursuant to the provisions of~~  
25 under sections fifty-seven, fifty-eight and sixty-four of this article. Upon payment to the deputy  
26 commissioner of those and any other unpaid statutory charges required by this article, and of any



27 unpaid expenses incurred by the sheriff, the Auditor and the deputy commissioner in the exercise  
28 of their duties ~~pursuant to~~ under this article, the deputy commissioner shall prepare an original  
29 and five copies of the receipt for the payment and shall note on said receipts that the property has  
30 been redeemed. The original of such receipt shall be given to the person redeeming. The deputy  
31 commissioner shall retain a copy of the receipt and forward one copy each to the sheriff, assessor,  
32 the Auditor and the clerk of the county commission. The clerk shall endorse on the receipt the  
33 fact and time of such filing and note the fact of redemption on his or her record of delinquent  
34 lands.

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

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

1 (a) If the real estate interest subject to a tax lien is a mineral interest, but does not include  
2 an interest in the surface other than an interest for the purpose of developing the minerals, then  
3 within thirty days after notices to redeem have been served, or an attempt of personal service has  
4 been made, the notices have been mailed or, if necessary, published in accordance with section  
5 fifty-five of this article, following the deputy commissioner's sale, a surface owner above the  
6 mineral interest may pay to the deputy commissioner: (1) The amount that would be required for  
7 redemption; (2) the lesser of either the amount identified for redemption or \$3,000; and (3) a  
8 nonrefundable \$20 administrative fee. The deputy commissioner shall issue the surface owner a

9 certificate of substitution and send a copy to the purchaser. If more than one surface owner of  
10 record submits payment to the deputy commissioner, the deputy commissioner shall issue each  
11 a certificate of substitution and send copies of the certificates of substitution to the others in  
12 addition to the purchaser.

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

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

19 (d) If more than one surface owner submits payment, before an additional fifteen days, the  
20 surface owners must submit an agreement dividing the real estate according to their proportionate  
21 share. The interest of an owner of a surface tract shall be equal to the acreage stated on  
22 documents of record even if the owner only owns an undivided interest. However, if more than  
23 one owner of an undivided interest submits payment, their proportionate shares are the total  
24 acreage of the undivided tract divided by the number of owners of the tract who pay in. If no  
25 agreement is filed, then the deputy commissioner shall refund their moneys, less the  
26 administrative fees, and the original purchaser is returned to his or her original position. If an  
27 agreement is filed, then the deputy commissioner shall make an amended certificate showing the  
28 division according to their interests, the deputy commissioner shall send the purchaser twice the  
29 amount required for redemption, and divide the remaining money paid by all surface owners  
30 according to their agreed interests.

**§11A-3-58b. Mineral owner substitution for purchaser.**

1 (a) If the real estate interest subject to a tax lien is a surface tract, but does not include an  
2 interest in the minerals, then within thirty days after notices to redeem have been served, or an  
3 attempt of personal service has been made, the notices have been mailed or, if necessary,

4 published in accordance with section fifty-five of this article, following the deputy commissioner's  
5 sale, a surface owner above the mineral interest may pay to the deputy commissioner: (1) The  
6 amount that would be required for redemption; (2) the lesser of either the amount identified for  
7 redemption or \$3,000; and (3) a nonrefundable \$20 administrative fee. The deputy commissioner  
8 shall issue the mineral owner a certificate of substitution and send a copy to the purchaser. If  
9 more than one mineral owner of record submits payment to the deputy commissioner, the deputy  
10 commissioner shall issue each a certificate of substitution and send copies of the certificates of  
11 substitution to the others in addition to the purchaser.

12 (b) If the property is redeemed, the deputy commissioner shall refund the moneys paid by  
13 the mineral owners, less the administrative fees.

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

18 (d) If more than one mineral owner submits payment, before an additional fifteen days, the  
19 mineral owners must submit an agreement dividing the real estate according to their proportionate  
20 share. The interest of an owner of a mineral tract shall be equal to the acreage stated on  
21 documents of record even if the owner only owns an undivided interest. However, if more than  
22 one owner of an undivided interest submits payment, their proportionate shares are the total  
23 acreage of the undivided tract divided by the number of owners of the tract who pay in. If no  
24 agreement is filed, then the deputy commissioner shall refund their moneys, less the  
25 administrative fees, and the original purchaser is returned to his or her original position. If an  
26 agreement is filed, then the deputy commissioner shall make an amended certificate showing the  
27 division according to their interests, the deputy commissioner shall send the purchaser twice the  
28 amount required for redemption, and divide the remaining money paid by all mineral owners  
29 according to their agreed interests.

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

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

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

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

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

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