

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 369

FISCAL
NOTE

BY SENATORS SYPOLT, MILLER, BOSO, MARONEY AND

SMITH

[Introduced February 21, 2017; Referred
to the Committee on Energy, Industry and Mining; and
then to the Committee on the Judiciary]

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 two new sections, designated §11A-3-23a and §11A-3-58a; and to amend and
 4 reenact §11A-4-4 of said code, all relating to permitting surface owners to purchase the
 5 mineral interests that lay below the property when the mineral interest becomes subject
 6 to a tax lien; establishing procedures; requiring notice; establishing the purchase prices;
 7 establishing nonrefundable \$20 administrative fee; providing a procedure if more than one
 8 surface owner seeks to purchase the delinquent mineral interest; modifying notices to
 9 redeem that 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 two new sections, designated §11A-3-23a and §11A-3-58a; and that §11A-4-4 of
 4 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 the purchaser, or other authorized
16 person, of the property shall pay the reasonable costs related to preparing the list of those served
17 with notice to redeem, other than surface owners, as provided by subdivision (3), subsection (a),
18 section twenty-three of this article;

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

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

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

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

34 ~~(b)~~ (c) If the person requesting preparation and service of the notice is an assignee of the

35 purchaser, he or she shall, at the time of the request, file with the State Auditor a written
36 assignment to him or her of the purchaser's rights, executed, acknowledged and certified in the
37 manner required to make a valid deed.

38 (e) (d) Whenever any certificate given by the sheriff for a tax lien on any land, or interest
39 in the land sold for delinquent taxes, or any assignment of the lien is lost or wrongfully withheld
40 from the rightful owner of the land and the land or interest has not been redeemed, the county
41 commission may receive evidence of the loss or wrongful detention and, upon satisfactory proof
42 of that fact, may cause a certificate of the proof and finding, properly attested by the State Auditor,
43 to be delivered to the rightful claimant and a record of the certificate shall be duly made by the
44 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 that was returned delinquent, you may pay the clerk twice
29 the amount identified above, plus a nonrefundable \$20 administrative fee, before March 1, 20 ____.
30 If you pay the required amount and the property is then redeemed, that amount you paid, less the
31 administrative fee, will be refunded to you. If you pay the required amount and the property is not
32 redeemed, you will be substituted for the purchaser of the tax lien and you may proceed to obtain
33 a deed for the property. If you and one or more additional surface owners each pay the
34 appropriate amount, all the surface owners who have made payment shall submit, by April 7,
35 20 ____, an agreement dividing the real estate according to their proportionate shares or any other
36 method or formula agreed to among all of you. If an agreement is not filed, the clerk shall refund
37 the moneys tendered by the surface owners, less the administrative fees, and none of you will be
38 substituted for the purchaser of the tax lien.

39 Given under my hand this _____ day of _____, 20 _____.

40 _____

41 State Auditor, State of West Virginia

42 (b) The State Auditor for his or her service in preparing the notice shall receive a fee of
43 \$10 for the original and \$2 for each copy required. Any additional costs which must be expended
44 for publication, or service of the notice in the manner provided for serving process commencing
45 a civil action, or for service of process by certified mail, shall be charged by the State Auditor. All
46 costs provided by this section shall be included as redemption costs and included in the notice
47 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~~ sections ten, twenty-four, twenty-five and thirty-two of this
31 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) Twice the amount that
5 would be required for redemption pursuant to section twenty-three of this article; and (2) a
6 nonrefundable \$20 administrative fee. The clerk shall issue the surface owner a certificate of
7 substitution and send a copy to the purchaser. If more than one surface owner makes this
8 payment to the clerk, the clerk shall issue each a certificate of substitution for each and send
9 copies of the certificates of substitution to the others in addition to the purchaser. If a purchaser
10 can demonstrate to the clerk that he or she is related to the owner of the property in whose name
11 it is listed, then the clerk may, in his or her sole discretion, cancel the certificates of substitution
12 and refund all moneys paid by the surface owner or owners, less the \$20 administrative fee.

13 (b) If the property is redeemed, the clerk shall refund the moneys paid, less the
14 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 clerk shall send the amount paid by the surface owner to the purchaser,
17 less the \$20 administrative fee, and record the certificate of substitution. That surface owner
18 enjoys the full rights and duties of the purchaser.

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

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

28 ~~(d)~~ (e) If the person requesting preparation and service of the notice is an assignee of the
29 purchaser, he or she shall, at the time of the request, file with the deputy commissioner a written
30 assignment to him or her of the purchaser's rights, executed, acknowledged and certified in the
31 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 _____,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 which was returned delinquent, you may, before the above
 30 date, pay the deputy commissioner: (1) Twice the amount identified above; (2) the amount
 31 identified above or \$3,000, whichever is less; and (3) a nonrefundable \$20 administrative fee. If
 32 you pay the required amount and the property is redeemed, the amount you paid, less the

33 administrative fee, will be refunded. If you pay the required amount and the property is not
 34 redeemed, you will be substituted for the purchaser of the tax lien and may proceed to obtain a
 35 deed for the property. If you do so and if one or more additional surface owners do so, then the
 36 surface owners must submit an agreement dividing the property according to their proportionate
 37 shares. If an agreement is not filed, the deputy commissioner shall refund the moneys tendered
 38 by the surface owners, less the administrative fees, and the original purchaser will be returned to
 39 his or her original rights and duties.

40 Given under my hand this _____ day of _____, 20_____.

41 _____

42 Deputy Commissioner of Delinquent
 43 and Nonentered Lands

44 _____ County,

45 State of West Virginia

46 The deputy commissioner for his or her service in preparing the notice shall receive a fee
 47 of \$10 for the original and \$2 for each copy required. Any costs which must be expended in
 48 addition thereto for publication, or service of such notice in the manner provided for serving
 49 process commencing a civil action, or for service of process by certified mail, shall be charged by
 50 the deputy commissioner. All costs provided by this section shall be included as redemption costs
 51 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 title examination incident
14 thereto, shall not exceed \$200 and, if the real estate is subject to subsection (d), section fifty-two
15 of this article, the reasonable cost for determining the location of all tracts of surface property
16 shown on the tax maps identified in subsection (e), section seven, article one-c, chapter eleven
17 of this code that lie above the real estate subject to the tax lien or liens purchased not to exceed
18 the actual amount incurred for the preparation of the list of those to be served with the notice to
19 redeem other than the surface owner; (4) all additional statutory costs paid by the purchaser; and
20 (5) the deputy commissioner's fee and commission as provided by section sixty-six of this article.
21 Where the deputy commissioner has not received from the purchaser satisfactory proof of the
22 expenses incurred in preparing the notice to redeem, and any examination of title incident thereto,
23 in the form of receipts or other evidence thereof, the person redeeming shall pay the deputy
24 commissioner the sum of \$200 plus interest thereon at the rate of one percent per month from
25 the date of the sale for disposition pursuant to ~~the provisions of~~ sections fifty-seven, fifty-eight and
26 sixty-four of this article. Upon payment to the deputy commissioner of those and any other unpaid
27 statutory charges required by this article, and of any unpaid expenses incurred by the sheriff, the
28 Auditor and the deputy commissioner in the exercise of their duties pursuant to this article, the
29 deputy commissioner shall prepare an original and five copies of the receipt for the payment and
30 shall note on said receipts that the property has been redeemed. The original of such receipt
31 shall be given to the person redeeming. The deputy commissioner shall retain a copy of the

32 receipt and forward one copy each to the sheriff, assessor, the Auditor and the clerk of the county
33 commission. The clerk shall endorse on the receipt the fact and time of such filing and note the
34 fact of redemption on his or her record of delinquent 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) Twice the amount that would be required
7 for redemption; (2) the amount that would be required for redemption or \$3,000, whichever is less;
8 and (3) a nonrefundable \$20 administrative fee. The deputy commissioner shall issue the surface
9 owner a certificate of substitution and send a copy to the purchaser. If more than one surface
10 owner of record submits payment to the deputy commissioner, the deputy commissioner shall
11 issue each a certificate of substitution and send copies of the certificates of substitution to the
12 others in 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.

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 is exercising rights as a surface owner pursuant to
 5 sections twenty-three-a or fifty-eight-a, article three of this chapter, he or she, his or her heirs and
 6 assigns, may, before the expiration of three years following the delivery of the deed, institute a
 7 civil action to set aside the deed. No deed shall be set aside under ~~the provisions of~~ this section

8 until payment has been made or tendered to the purchaser, or his or her heirs or assigns, of the
9 amount which would have been required for redemption or the exercise of rights as a surface
10 owner pursuant to sections twenty-three-a or fifty-eight-a, article three of this chapter, together
11 with any taxes which have been paid on the property since delivery of the deed, with interest at
12 the rate of twelve percent per annum.

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

17 (c) Upon a preliminary finding by the court that the deed will be set aside pursuant to this
18 section, such amounts shall be paid within one month of the entry thereof. Upon the failure to
19 pay the same within said period of time, the court shall upon the request of the purchaser, enter
20 judgment 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. The bill establishes 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 a heading or the present law and underscoring indicates new language that would be added.