

WEST VIRGINIA LEGISLATURE
2018 FIRST EXTRAORDINARY SESSION

Enrolled

Senate Bill 1006

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Passed May 21, 2018; in effect from passage]

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

Be it enacted by the Legislature of West Virginia:

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

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

1 (a) At any time after August 31 of the year following the sheriff's sale, and on or before
2 October 31 of the same year, the purchaser, his or her heirs or assigns, in order to secure a deed
3 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 §11A-3-21 and §11A-3-22 of this code;

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;

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

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

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

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

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

**§11A-3-20. Refund to purchaser of payment made at sheriff's sale where property is
subject of an erroneous assessment or is otherwise nonexistent.**

1 If, by October 31 of the year following payment of the amount bid at a sheriff's sale, the
2 purchaser discovers that the lien purchased at that sale is the subject of an erroneous assessment
3 or is otherwise nonexistent, the purchaser shall submit the abstract or certificate of an attorney at
4 law that the property is the subject of an erroneous assessment or is otherwise nonexistent. Upon
5 receipt of the abstract or certificate, the sheriff shall cause any money paid to be refunded. Upon

6 refund, the sheriff shall inform the assessor and the State Auditor of the erroneous assessment
7 for the purpose of having the assessor correct the error. For failure to meet this requirement, the
8 purchaser shall lose all benefits of his or her purchase.

§11A-3-27. Deed to purchaser; record.

1 (a) If the real estate described in the notice is not redeemed within the time specified in
2 the notice, then from April 1 of the second year following the sheriff's sale until the expiration of
3 the lien evidenced by a tax certificate of sale as provided in §11A-3-18 of this code, the State
4 Auditor or his or her deputy shall upon request of the purchaser make and deliver to the clerk of
5 the county commission, a quitclaim deed for the real estate. The purchaser's right to a tax deed
6 shall be forfeited if the deed is not requested within the 18-month period set forth in §11A-3-18 of
7 this code. The deed shall provide in form or effect as follows:

8 This deed made this _____ day of _____, 20 _____, by and between
9 _____, State Auditor, West Virginia, (or by and between _____, a
10 commissioner appointed by the circuit court of _____ County, West Virginia) grantor,
11 and _____, purchaser, (or _____, heir, devisee or assignee of
12 _____, purchaser), grantee, witnesseth, that:

13 Whereas, In pursuance of the statutes in such case made and provided,
14 _____, Sheriff of _____ County, (or _____, deputy for
15 _____, Sheriff of _____ County), (or _____, collector of
16 _____ County), did, in the month of _____, in the year 20 _____, sell the tax
17 lien(s) on real estate, hereinafter mentioned and described, for the taxes delinquent thereon for
18 the year (or years) 20 _____, and _____, (here insert name of purchaser) for the sum
19 of \$_____, that being the amount of purchase money paid to the sheriff, did become the
20 purchaser of the tax lien(s) on such real estate (or on _____ acres, part of the tract or land,
21 or on an undivided _____ interest in such real estate) which was returned delinquent in
22 the name of _____; and

23 Whereas, The State Auditor has caused the notice to redeem to be served on all persons
24 required by law to be served therewith; and

25 Whereas, The tax lien(s) on the real estate so purchased has not been redeemed in the
26 manner provided by law and the time for redemption set in such notice has expired;

27 Now, therefore, the grantor, for and in consideration of the premises and in pursuance of
28 the statutes, doth grant unto _____, grantee, his or her heirs and assigns forever, the
29 real estate on which the tax lien(s) so purchased existed, situate in the county of
30 _____, bounded and described as follows:
31 _____.

32 Witness the following signature: _____

33 State Auditor.

34 (b) The State Auditor shall execute and deliver a deed within 120 days after the person
35 entitled to the deed requests the execution of the deed, except when directed to do otherwise
36 under §11A-3-28 of this code.

37 (c) For the execution of the deed and for all the recording required by this section, a fee
38 of \$50 and the recording and transfer tax expenses shall be charged, to be paid by the grantee
39 upon delivery of the deed. The deed, when duly acknowledged or proven, shall be recorded by
40 the clerk of the county commission in the deed book in the clerk's office, together with any
41 assignment from the purchaser, if one was made, the notice to redeem, the return of service of
42 the notice, the affidavit of publication, if the notice was served by publication, and any return
43 receipts for notices sent by certified mail.

44 (d) The State Auditor shall appoint employees of his or her office to act as his or her
45 designee to effect the purposes of this section.

§11A-3-55. Service of notice.

1 As soon as the deputy commissioner has prepared the notice provided for in §11A-3-54
2 of this code, he shall cause it to be served upon all persons named on the list generated by the

3 purchaser pursuant to the provisions of §11A-3-52 of this code. Such notice shall be mailed and,
4 if necessary, published at least 45 days prior to the first day a deed may be issued following the
5 deputy commissioner's sale.

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

10 If any person entitled to notice is a nonresident of this state, whose address is known to
11 the purchaser, he shall be served at such address by certified mail, return receipt requested.

12 If the address of any person entitled to notice, whether a resident or nonresident of this
13 state, is unknown to the purchaser and cannot be discovered by due diligence on the part of the
14 purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in
15 compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area for such
16 publication shall be the county in which such real estate is located. If service by publication is
17 necessary, publication shall be commenced when personal service is required as set forth above,
18 and a copy of the notice shall at the same time be sent by certified mail, return receipt requested,
19 to the last known address of the person to be served. The return of service of such notice, and
20 the affidavit of publication, if any, shall be in the manner provided for process generally and shall
21 be filed and preserved by the auditor in his office, together with any return receipts for notices
22 sent by certified mail.

23 In addition to the other notice requirements set forth in this section, if the real property
24 subject to the tax lien was classified as Class II property at the time of the assessment, at the
25 same time the deputy commissioner issues the required notices by certified mail, the deputy
26 commissioner shall forward a copy of the notice sent to the delinquent taxpayer by first class mail,
27 addressed to "Occupant", to the physical mailing address for the subject property. The physical
28 mailing address for the subject property shall be supplied by the purchaser of the property,

29 pursuant to the provisions of §11A-3-52 of this code. Where the mail is not deliverable to an
30 address at the physical location of the subject property, the copy of the notice shall be sent to any
31 other mailing address that exists to which the notice would be delivered to an occupant of the
32 subject property.

§11A-3-59. Deed to purchaser; record.

1 If the real estate described in the notice is not redeemed within the time specified therein,
2 but in no event prior to 30 days after notices to redeem have been personally served, or an attempt
3 of personal service has been made, or such notices have been mailed or, if necessary, published
4 in accordance with the provisions of §11A-3-55 of this code, following the deputy commissioner's
5 sale, the deputy commissioner shall, upon the request of the purchaser, make and deliver to the
6 person entitled thereto a quitclaim deed for such real estate in form or effect as follows:

7 This deed, made this _____ day of _____, 20____, by and between
8 _____, deputy commissioner of delinquent and nonentered lands of _____
9 County, West Virginia, grantor, and _____, purchaser (or
10 _____ heir, devisee, assignee of _____, purchaser)
11 grantee, witnesseth, that

12 Whereas, in pursuance of the statutes in such case made and provided,
13 _____, deputy commissioner of delinquent and nonentered lands of
14 _____ County, did, on the _____ day of _____, 20____, sell
15 the real estate hereinafter mentioned and described for the taxes delinquent thereon for the
16 year(s) 20____, (or as nonentered land for failure of the owner thereof to have the land entered
17 on the land books for the years _____, or as property escheated to the State of West
18 Virginia, or as waste or unappropriated property) for the sum of \$_____, that
19 being the amount of purchase money paid to the deputy commissioner, and _____ (here
20 insert name of purchaser) did become the purchaser of such real estate, which was returned

21 delinquent in the name of _____ (or nonentered in the name of, or escheated from
22 the estate of, or which was discovered as waste or unappropriated property); and

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

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

27 Now, therefore, the grantor for and in consideration of the premises recited herein, and
28 pursuant to the provisions of Article 3, Chapter 11A of the West Virginia Code, doth grant unto
29 _____, grantee, his or her heirs and assigns forever, the real estate so
30 purchased, situate in the County of _____, bounded and described as follows:
31 _____ (here insert description of property)

32 Witness the following signature:

33 _____

34 Deputy Commissioner of Delinquent and Nonentered Lands of _____
35 County

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

38 For the preparation and execution of the deed and for all the recording required by this
39 section, a fee of \$50 and the recording expenses shall be charged, to be paid by the grantee upon
40 delivery of the deed. The deed, when duly acknowledged or proven, shall be recorded by the clerk
41 of the county commission in the deed book in his or her office, together with the assignment from
42 the purchaser, if one was made, the notice to redeem, the return of service of such notice, the
43 affidavit of publication, if the notice was served by publication, and any return receipts for notices
44 sent by certified mail.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2018.

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Governor