

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4452

BY DELEGATES MAYNARD, HILL, BARNHART, WORRELL,
WESTFALL, PHILLIPS, J. JEFFRIES, COOPER, HARDY,
KESSINGER AND BIBBY

[Passed March 7, 2020; in effect ninety days from
passage.]

1 AN ACT to amend and reenact §11A-3-18, §11A-3-22, §11A-3-52, and §11A-3-55 of the Code of
2 West Virginia, 1931, as amended, all relating generally to notice requirements on tax
3 collections and sale of delinquent property conducted by the State Auditor; allowing
4 purchaser extension of time for compliance with notice requirements upon written request
5 to State Auditor and payment of fees; requiring State Auditor to pay fees for extensions of
6 time to board of education for county where property is located; revising procedure for
7 serving or providing notice to certain persons having interest in property to be sold.

Be it enacted by the Legislature of West Virginia:

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

§11A-3-18. Limitations on tax certificates.

1 (a) No lien upon real property evidenced by a tax certificate of sale issued by a sheriff on
2 account of any delinquent property taxes may remain a lien on the real property for a period longer
3 than 18 months after the original issuance of the tax certificate of sale.

4 (b) All rights of a purchaser to the property, to a lien on the property, or to any other interest
5 in the property, including, but not limited to any right to a tax deed, shall be considered forfeited
6 and expired, and no tax deed is to be issued on any tax sale evidenced by a tax certificate of sale
7 where the certificate has ceased to be a lien pursuant to the provisions of this section and
8 application for the tax deed, pursuant to the provisions of §11A-3-27 of this code, is not pending
9 at the time of the expiration of the limitation period provided in this section.

10 (c) Whenever a lien evidenced by a tax certificate of sale has expired by reason of the
11 provisions of this section, the State Auditor shall immediately issue and record a certificate of
12 cancellation describing the real estate included in the certificate of purchase or tax certificate and
13 giving the date of cancellation, and the State Auditor shall also make proper entries in his or her
14 records. The State Auditor shall also present a copy of every certificate of cancellation to the

15 sheriff, who shall enter it in the sheriff's records, and the certificate and the record are prima facie
16 evidence of the cancellation of the certificate of sale and of the release of the lien of the certificate
17 on the lands described in the certificate. Failure to record the certificate of cancellation does not
18 extend the lien evidenced by the certificate of sale. The sheriff and State Auditor are not entitled
19 to any fees for the issuing of the certificate of cancellation, nor for the entries in their books made
20 under the provisions of this subsection.

21 (d) Whenever a purchaser has complied with the notice requirements provided in §11A-
22 3-19 of this code, but has failed to request a deed within the 18 month deadline provided in this
23 section, thereby forfeiting all rights to a tax deed, the purchaser may recover the amounts paid in
24 excess of the taxes owed and expenses incurred by the State Auditor in the processing of the tax
25 lien if, within 30 days of the expiration of the lien, upon a showing of compliance with the provisions
26 of §11A-3-19 of this code, the purchaser files with the State Auditor a request in writing for the
27 refund. A purchaser who fails to file the request within the 30-day period forfeits all rights to the
28 refund.

29 (e) Whenever a purchaser has failed to comply with the notice requirements set forth in
30 §11A-3-19 of this code, the purchaser may receive an additional 30 days to comply with the notice
31 requirements set forth in §11A-3-19 of this code if, by December 1st of the year following the sale,
32 the purchaser files with the State Auditor a request in writing for the extension and makes payment
33 by cash, cashier check, certified check, or money order in the amount of \$100 or 10 percent of
34 the total amount paid on the day of sale set forth in §11A-3-5 of this code, whichever is greater.
35 The fee for issuing the certificate of extension shall be \$25 made payable to the State Auditor.

36 (f) The State Auditor shall each month draw his or her warrant upon the Treasury payable
37 to the county board of education of each county for payment received by him or her for the
38 extension of the time period set forth in subsection (e) of this section for property located within
39 each such county.

§11A-3-22. Service of notice.

1 (a) As soon as the State Auditor has prepared the notice provided in §11A-3-21 of this
2 code, he or she shall cause it to be served upon all persons named on the list generated by the
3 purchaser pursuant to the provisions of §11A-3-19 of this code.

4 (b) The notice shall be served upon all persons residing or found in the state in the manner
5 provided for serving process commencing a civil action, or by certified mail, return receipt
6 requested, or other types of delivery service courier that provide a receipt. The notice shall be
7 served on or before the 30th day following the request for the notice.

8 (c) The notice shall be served upon persons not residing or found in the state by certified
9 mail, return receipt requested, or in the manner provided for serving process commencing a civil
10 action, or other types of delivery service courier that provide a receipt. The notice shall be served
11 on or before the 30 days following the request for the notice.

12 (d) If the address of a person is unknown to the purchaser and cannot be discovered by
13 due diligence on the part of the purchaser, the notice shall be served by publication as a Class
14 III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the
15 publication area for the publication shall be the county in which the real property is located. If
16 service by publication is necessary, publication shall be commenced within 60 days following the
17 request for the notice, and a copy of the notice shall, at the same time, be sent pursuant to
18 subsection (b) or (c) of this section, to the last known address of the person to be served. The
19 return of service of the notice and the affidavit of publication, if any, shall be in the manner
20 provided for process generally and shall be filed and preserved by the State Auditor in his or her
21 office, together with any return receipts for notices sent by certified mail.

22 (e) In addition to the other notice requirements set forth in this section, if the real property
23 subject to the tax lien was classified as Class II property at the time of the assessment, at the
24 same time the State Auditor issues the required notices by certified mail, the State Auditor shall
25 forward a copy of the notice sent to the delinquent taxpayer by first class mail, or in the manner

26 provided for serving process commencing a civil action, addressed to "Occupant", to the physical
27 mailing address for the subject property. The physical mailing address for the subject property
28 shall be supplied by the purchaser of the tax lien pursuant to the provisions of §11A-3-19 of this
29 code. Where the mail is not deliverable to an address at the physical location of the subject
30 property, the copy of the notice shall be sent to any other mailing address that exists to which the
31 notice would be delivered to an occupant of the subject property.

§11A-3-52. What purchaser must do before he or she can secure a deed.

1 (a) Within 45 days following the approval of the sale by the auditor pursuant to §11A-3-51
2 of this code, the purchaser, his or her heirs or assigns, in order to secure a deed for the real estate
3 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 §11A-3-54 and §11A-3-55 of this
6 code;

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 subsection (a) of this section,
13 the purchaser shall lose all the benefits of his or her purchase.

14 (c) After the requirements of subsection (a) of this section have been satisfied, the deputy
15 commissioner may then sell the property in the same manner as he sells lands which have been
16 offered for sale at public auction but which remain unsold after such auction, as provided in §11A-
17 3-48 of this code.

18 (d) 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 deputy commissioner a written

20 assignment to him or her of the purchaser's rights, executed, acknowledged, and certified in the
21 manner required to make a valid deed.

22 (e) Whenever a purchaser has failed to comply with the notice requirements set forth in
23 subsection (a) of this section, the purchaser may receive an additional 30 days to comply with the
24 notice requirements set forth in subsection (a) of this section if the purchaser files with the State
25 Auditor a request in writing for the extension before the expiration of the time period set forth in
26 subsection (a) of this section and makes payment by cash, cashier check, certified check, or
27 money order in the amount of \$100 or 10 percent of the total amount paid on the day of sale set
28 forth in §11A-3-45 of this code, whichever is greater. The fee for issuing the certificate of extension
29 shall be \$25 made payable to the State Auditor.

30 (f) The State Auditor shall each month draw his or her warrant upon the Treasury payable
31 to the county board of education of each county for payment received by him or her for the
32 extension of the time period set forth in subsection (e) of this section for property located within
33 each such county.

§11A-3-55. Service of notice.

1 (a) As soon as the deputy commissioner has prepared the notice provided for in §11A-3-
2 54 of this code, he or she shall cause it to be served upon all persons named on the list generated
3 by the purchaser pursuant to the provisions of §11A-3- 52 of this code. Such notice shall be mailed
4 and, if necessary, published at least 45 days prior to the first day a deed may be issued following
5 the deputy commissioner's sale.

6 (b) 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 or other types of delivery service courier that provide a receipt. The notice shall be
9 served on or before the 30th day following the request for such notice.

10 (c) The notice shall be served upon persons not residing or found in the state by certified
11 mail, return receipt requested, or in the manner provided for serving process commencing a civil

12 action or other types of delivery service courier that provide a receipt. The notice shall be served
13 on or before the 30 days following the request for the notice.

14 (d) If the address of a person is unknown to the purchaser and cannot be discovered by
15 due diligence on the part of the purchaser, the notice shall be served by publication as a Class
16 III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the
17 publication area for the publication shall be the county in which the real property is located. If
18 service by publication is necessary, publication shall be commenced within 60 days following the
19 request for the notice, and a copy of the notice shall, at the same time, be sent pursuant to
20 subsection (b) or (c) of this section, to the last known address of the person to be served. The
21 return of service of the notice and the affidavit of publication, if any, shall be in the manner
22 provided for process generally and shall be filed and preserved by the State Auditor in his or her
23 office, together with any return receipts for notices sent by certified mail.

24 (e) In addition to the other notice requirements set forth in this section, if the real property
25 subject to the tax lien was classified as Class II property at the time of the assessment, at the
26 same time the deputy commissioner issues the required notices by certified mail, the deputy
27 commissioner shall forward a copy of the notice sent to the delinquent taxpayer by first class mail,
28 or in the manner provided for serving process commencing a civil action, addressed to
29 "Occupant", to the physical mailing address for the subject property. The physical mailing address
30 for the subject property shall be supplied by the purchaser of the property, pursuant to the
31 provisions of §11A-3-52 of this code. Where the mail is not deliverable to an address at the
32 physical location of the subject property, the copy of the notice shall be sent to any other mailing
33 address that exists to which the notice would be delivered to an occupant of the subject property.

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2020.

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Governor