

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

Introduced

### Senate Bill 256

FISCAL  
NOTE

BY SENATORS RUCKER AND CLINE

[Introduced January 10, 2020; referred  
to the Committee on Government Organization]

1 A BILL to amend and reenact §11A-3-2 of the Code of West Virginia, 1931, as amended, relating  
 2 to requiring the sheriff to send notices to the owners of record and to each resident or  
 3 occupant of real property prior to selling the property for which property taxes have not  
 4 been paid.

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

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

**§11A-3-2. Second publication of list of delinquent real estate; notice.**

1 (a) On or before September 10, of each year, the sheriff shall prepare a second list of  
 2 delinquent lands, which shall include all real estate in his or her county remaining delinquent as  
 3 of September 1, together with a notice of sale, in form or effect as follows:

4 Notice is hereby given that tax liens for the following described tracts or lots of land or  
 5 undivided interests therein in the County of \_\_\_\_\_ which are delinquent for the  
 6 nonpayment of taxes for the year (or years) 20\_\_\_\_, will be offered for sale by the undersigned  
 7 sheriff (or collector) at public auction at the front door of the courthouse of the county, between  
 8 the hours of nine in the morning and four in the afternoon, on the \_\_\_\_ day of  
 9 \_\_\_\_\_, 20\_\_\_\_.

10 Tax liens on each unredeemed tract or lot, or each unredeemed part thereof or undivided  
 11 interest therein, will be sold at public auction to the highest bidder in an amount which shall not  
 12 be less than the taxes, interest and charges which shall be due thereon to the date of sale, as set  
 13 forth in the following table:

Name of person charged with taxes	Quantity of land	Local description	Total amount of taxes, interest and charges due to date of sale
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14 Any of the aforesaid tracts or lots, or part thereof or an undivided interest therein, may be  
 15 redeemed by the payment to the undersigned sheriff (or collector) before sale, of the total amount  
 16 of taxes, interest and charges due thereon up to the date of redemption. Payment received within  
 17 14 business days prior to the date of sale must be paid by cashier check, money order, certified  
 18 check or United States currency. Payment must be received in the tax office by the close of  
 19 business on the last business day prior to the sale.

20 Given under my hand this \_\_\_\_\_ day of  
 21 \_\_\_\_\_, 20\_\_\_\_.  
 22 \_\_\_\_\_

23 Sheriff (or collector).

24 The sheriff shall publish the list and notice prior to the sale date fixed in the notice as a  
 25 Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code,  
 26 and the publication area for such publication shall be is the county.

27 (b) In addition to ~~such~~ the publication, no less than 30 days prior to the sale, the sheriff  
 28 shall send a notice of the delinquency and the date of sale by certified mail: (1) To the last known  
 29 address of each person listed in the land books whose taxes are delinquent; (2) to each person  
 30 having a lien on real property upon which the taxes are due as disclosed by a statement filed with  
 31 the sheriff pursuant to the provisions of §11A-3-3 of this code; (3) to each other person with an  
 32 interest in the property or with a fiduciary relationship to a person with an interest in the property  
 33 who has in writing delivered to the sheriff on a form prescribed by the Tax Commissioner a request  
 34 for such notice of delinquency; (4) if not sent pursuant to the preceding clauses, to each owner of  
 35 record of the property; (5) if not sent pursuant to the preceding clauses, to each resident or  
 36 occupant of the property; and ~~(4)~~ (6) in the case of property which includes a mineral interest but  
 37 does not include an interest in the surface other than an interest for the purpose of developing

38 the minerals, to each person who has in writing delivered to the sheriff, on a form prescribed by  
39 the Tax Commissioner, a request for such notice which identifies the person as an owner of an  
40 interest in the surface of real property that is included in the boundaries of ~~such~~ the property:  
41 *Provided*, That in a case where one owner owns more than one parcel of real property upon which  
42 taxes are delinquent, the sheriff may, at his or her option, mail separate notices to the owner and  
43 each lienholder for each parcel or may prepare and mail to the owner and each lienholder a single  
44 notice which pertains to all such delinquent parcels. If the sheriff elects to mail only one notice,  
45 that notice shall set forth a legally sufficient description of all parcels of property on which taxes  
46 are delinquent. In no event shall failure to receive the mailed notice by the landowner or lienholder  
47 affect the validity of the title of the property conveyed if it is conveyed pursuant to §11A-3-27 or  
48 §11A-3-59 of this code.

49 (c) (1) To cover the cost of preparing and publishing the second delinquent list, a charge  
50 of \$25 shall be added to the taxes, interest and charges already due on each item and all such  
51 charges shall be stated in the list as a part of the total amount due.

52 (2) To cover the cost of preparing and mailing notice to the landowner, lienholder or any  
53 other person entitled thereto pursuant to this section, a charge of \$10 per addressee shall be  
54 added to the taxes, interest and charges already due on each item and all ~~such~~ these charges  
55 shall be stated in the list as a part of the total amount due.

56 (d) Any person whose taxes were delinquent on September 1, may have his or her name  
57 removed from the delinquent list prior to the time the ~~same~~ list is delivered to the newspapers for  
58 publication by paying to the sheriff the full amount of taxes and costs owed by the person at the  
59 date of such redemption. In ~~such~~ that case, the sheriff shall include but \$3 of the costs provided  
60 in this section in making such redemption. Costs collected by the sheriff hereunder which are not  
61 expended for publication and mailing shall be paid into the general county fund.

NOTE: The purpose of this bill is to require the sheriff to send notices to the owners of

record and to each resident or occupant of real property prior to selling the property for which property taxes have not been paid.

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