WEST virginia legislature

2024 regular session

Committee Substitute

for

House Bill 4952

By Delegate Foster

[Originating in the Committee on the Judiciary; Reported on February 12, 2024]

A BILL to amend and reenact § 11A-3-55 and §11A-3-59 of the Code of West Virginia, 1931, as amended, relating to providing 120 days to persons who are served notice by purchaser of tax lien to redeem subject property.

Be it enacted by the Legislature of West Virginia:

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

§11A-3-55. Service of notice.

(a) As soon as the Auditor has prepared the notice provided for in §11A-3-54 of this code, he or she shall cause it to be served upon all persons named on the list generated by the purchaser pursuant to the provisions of §11A-3-52 of this code. Such notice shall be mailed and, if necessary, published at least ~~45~~ 120 days prior to the first day a deed may be issued following the Auditor’s sale.

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

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

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

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

**§11A-3-59. Deed to purchaser; record.**

If after notices to redeem have been personally served, or an attempt of personal service has been made, or such notices have been mailed or, if necessary, published in accordance with the provisions of §11A-3-55 of this code, following the deputy commissioner’s sale, the real estate described in the notice is not redeemed within ~~the time specified therein~~, ~~but in no event prior to 30 days after notices to redeem have been personally served, or an attempt of personal service has been made, or such notices have been mailed or, if necessary, published in accordance with the provisions of §11A-3-55 of this code, following the deputy commissioner’s sale,~~ 120 days, the deputy commissioner shall, upon the request of the purchaser, make and deliver to the person entitled thereto a quitclaim deed for such real estate in form or effect as follows:

This deed, made this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_\_\_\_\_\_\_, deputy commissioner of delinquent and nonentered lands of \_\_\_\_\_\_\_\_\_\_\_\_\_ County, West Virginia, grantor, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, purchaser (or \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ heir, devisee, assignee of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, purchaser) grantee, witnesseth, that

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

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

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

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

Witness the following signature:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Deputy Commissioner of Delinquent and Nonentered Lands of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County

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

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

Upon payment of the final costs and fees required by this article, the purchaser shall have the right to inspect and perform necessary and reasonable repairs for the preservation of the real property: *Provided*, That the current occupant has a duty to preserve the property to the best of his or her ability and control.

NOTE: The purpose of this bill is to provide 120 days to persons who are served notice by purchaser of tax lien to redeem subject property.

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