

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 405

BY SENATOR SYPOLT

[Introduced January 23, 2019; Referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §11A-3-23, §11A-3-25, §11A-3-56, §11A-3-57, and §11A-3-58 of
 2 the Code of West Virginia, 1931, as amended, all relating to increasing the limit to \$500
 3 on additional expenses a purchaser may recover in preparing notice list for redemption of
 4 purchase and for licensed attorney’s title examination.

Be it enacted by the Legislature of West Virginia:

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

**§11A-3-23. 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 §11A-3-5 of this code, the owner of, or any other person who was entitled to pay the taxes on,
 3 any real estate for which a tax lien on the real estate was purchased by an individual may redeem
 4 at any time before a tax deed is issued for the real estate. In order to redeem, he or she shall pay
 5 to the State Auditor the 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~~ The
 16 maximum amount the owner or other authorized person shall pay, excluding the interest, for the

17 expenses incurred for the preparation of the list of those to be served required by ~~section nineteen~~
18 ~~of this article is \$300~~ §11A-3-19 of this code is \$500. ~~Provided however, That the~~ An attorney
19 may only charge a fee for legal services actually performed and must certify that he or she
20 conducted an examination to determine the list of those to be served required by ~~section nineteen~~
21 ~~of this article~~ §11A-3-19 of this code; 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 §11A-3-23(a)(3) of this code, incident thereto, in the form of receipts or other evidence
27 of legal expenses, incurred as provided in section 19 of this article, the person redeeming shall
28 pay the State Auditor the sum of ~~\$300~~ \$500 plus interest at the rate of one percent per month
29 from January 1 of the year following the sheriff's sale for disposition by the sheriff pursuant to the
30 provisions of ~~sections ten, twenty-four, twenty-five and thirty-two of this article~~ §11A-3-10, §11A-
31 3-24, §11A-3-25, and §11A-3-32 of this code.

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 §11A-3-19 of this code.

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 30
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 10th 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-3-25. Distribution of surplus to purchaser.

1 (a) Where the land has been redeemed in the manner set forth in ~~section twenty-three of~~
 2 ~~this article~~ §11A-3-23 of this code, and the State Auditor has delivered the redemption money to
 3 the sheriff pursuant to ~~section twenty-four of this article~~ §11A-3-24 of this code, the sheriff shall,
 4 upon receipt of the sum necessary to redeem, promptly notify the purchaser or his or her heirs or
 5 assigns, by mail, of the fact of the redemption and pay to the purchaser or his or her heirs or
 6 assigns the following amounts:

7 (1) From the sale of tax lien surplus fund provided by ~~section ten of this article~~ §11A-3-10
 8 of this code;

9 (A) The surplus of money paid in excess of the amount of the taxes, interest and charges
 10 paid by the purchaser to the sheriff at the sale; and

11 (B) The amount of taxes, interest and charges paid by the purchaser on the date of the
 12 sale, plus the interest at the rate of one percent per month from the date of sale to the date of
 13 redemption;

14 (2) All other taxes on the land which have since been paid by the purchaser or his or her
 15 heirs or assigns, with interest at the rate of one percent per month from the date of payment to
 16 the date of redemption;

17 (3) Any additional reasonable expenses that the purchaser may have incurred from
18 January 1 of the year following the sheriff's sale to the date of redemption for the preparation of
19 the list of those to be served with notice to redeem and any written documentation used for the
20 preparation of the list, in accordance with ~~section nineteen of this article~~ §11A-3-19 of this code,
21 with interest at the rate of one percent per month from the date of payment, but the amount which
22 shall be paid, excluding the interest, for the expenses incurred for the preparation of the list of
23 those to be served with notice to redeem required by ~~section nineteen of this article~~ §11A-3-19 of
24 this code shall not exceed the amount actually incurred by the purchaser or ~~\$300~~ \$500, whichever
25 is less. ~~Provided, That the~~ An attorney may only charge a fee for legal services actually performed
26 and must certify that he or she conducted an examination to determine the list of those to be
27 served required by ~~section nineteen of this article~~ §11A-3-19 of this code; and

28 (4) All additional statutory costs paid by the purchaser.

29 (b) (1) The notice shall include:

30 (A) A copy of the redemption certificate issued by the State Auditor;

31 (B) An itemized statement of the redemption money to which the purchaser is entitled
32 pursuant to the provisions of this section; and

33 (C) Where, at the time of the redemption, the State Auditor has not received from the
34 purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served
35 with notice to redeem and any written documentation used for the preparation of the list in
36 accordance with ~~section nineteen of this article~~ §11A-3-19 of this code, the State Auditor shall
37 also include instructions to the purchaser as to how these expenses may be claimed.

38 (2) Subject to the limitations of this section, the purchaser is entitled to recover any
39 expenses incurred in preparing the list of those to be served with notice to redeem and any written
40 documentation used for the preparation of the list from January 1 of the year following the sheriff's
41 sale to the date of the sale to the date of the redemption.

42 (c) Where, pursuant to ~~section twenty-three of this article~~ §11A-3-23 of this code, the State

43 Auditor has not received from the purchaser satisfactory proof of the expenses incurred in
 44 preparing the list of those to be served with notice to redeem, including written documentation
 45 used for preparation of the list, in the form of receipts or other evidence within 30 days from the
 46 date of notification by the State Auditor, the sheriff shall refund the amount to the person
 47 redeeming and the purchaser is barred from any claim. Where, pursuant to that section, the State
 48 Auditor has received from the person redeeming and therefore delivered to the sheriff the sum of
 49 ~~\$300~~ \$500 plus interest at the rate of one percent per month from January 1 of the year following
 50 the sheriff's sale to the date of the sale to the date of redemption, and the purchaser provides the
 51 sheriff within 30 days from the date of notification satisfactory proof of the expenses, and the
 52 amount of the expenses is less than the amount paid by the person redeeming, the sheriff shall
 53 refund the difference to the person redeeming

**§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~~ §11A-3-45 or §11A-3-48 of this code, the owner of, or any other person who
 3 was entitled to pay the taxes on, any real estate for which a tax lien thereon was purchased by
 4 an individual, may redeem at any time before a tax deed is issued therefor. In order to redeem,
 5 he or she must pay to the deputy commissioner the following amounts: (1) An amount equal to
 6 the taxes, interest and charges due on the date of the sale, with interest thereon at the rate of one
 7 percent per month from the date of sale; (2) all other taxes thereon, which have since been paid
 8 by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month
 9 from the date of payment; (3) such additional expenses as may have been incurred in preparing
 10 the list of those to be served with notice to redeem, and for any licensed attorney's title
 11 examination incident thereto, with interest at the rate of one percent per month from the date of
 12 payment, but the amount he or she shall be required to pay, excluding said interest, for such
 13 expenses incurred for the preparation of the list of those to be served with notice to redeem

14 required by ~~section fifty-two of this article~~ §11A-3-52 of this code, and for any licensed attorney's
15 title examination incident thereto, shall not exceed ~~\$200~~ \$500. An attorney may only charge a fee
16 for legal services actually performed and must certify that he or she conducted an examination to
17 determine the list of those to be served required by ~~section fifty-two of this article,~~ §11A-3-52 of
18 this code; (4) all additional statutory costs paid by the purchaser; and (5) the deputy
19 commissioner's fee and commission as provided by ~~section sixty-six of this article.~~ §11A-3-66 of
20 this code. Where the deputy commissioner has not received from the purchaser satisfactory proof
21 of the expenses incurred in preparing the notice to redeem, and or of any ~~examination of title~~
22 licensed attorney's title examination incident thereto, in the form of receipts or other evidence
23 thereof, the person redeeming shall pay the deputy commissioner the sum of ~~\$200~~ \$500 plus
24 interest thereon at the rate of one percent per month from the date of the sale for disposition
25 pursuant to ~~the provisions of sections fifty-seven, fifty-eight and sixty-four of this article~~ §11A-3-
26 57, §11A-3-58, and §11A-3-64 of this code. Upon payment to the deputy commissioner of those
27 and any other unpaid statutory charges required by this article, and of any unpaid expenses
28 incurred by the sheriff, the Auditor and the deputy commissioner in the exercise of their duties
29 pursuant to this article, the deputy commissioner shall prepare an original and five copies of the
30 receipt for the payment and shall note on said receipts that the property has been redeemed. The
31 original of such receipt shall be given to the person redeeming. The deputy commissioner shall
32 retain a copy of the receipt and forward one copy each to the sheriff, assessor, the Auditor and
33 the clerk of the county commission. The clerk shall endorse on the receipt the fact and time of
34 such filing and note the 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 30

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-3-57. Notice of redemption to purchaser; moneys received by sheriff.

1 (a) Upon payment of the sum necessary to redeem, the deputy commissioner shall
2 promptly deliver to the sheriff the redemption money paid and the name and address of the
3 purchaser, his or her heirs or assigns.

4 (b) Of the redemption money received by the sheriff pursuant to this section, the sheriff
5 shall hold as surplus to be disposed of pursuant to ~~section sixty-four of this article~~ §11A-3-64 of
6 this code an amount thereof equal to the amount of taxes, interest and charges due on the date
7 of the sale, plus the interest at the rate of one percent per month thereon from the date of sale to
8 the date of redemption.

§11A-3-58. Distribution to purchaser.

1 (a) Where the land has been redeemed in the manner set forth in ~~section fifty-six of this~~
2 ~~article, §11A-3-56 of this code,~~ and the deputy commissioner has delivered the redemption money
3 to the sheriff pursuant to ~~section fifty-seven of this article, §11A-3-57 of this code,~~ the sheriff shall,
4 upon delivery of the sum necessary to redeem, promptly notify the purchaser, his or her heirs or
5 assigns, by mail, of the redemption and pay to the purchaser, his or her heirs or assigns, the
6 following amounts: (1) The amount paid to the deputy commissioner at the sale; (2) all other taxes
7 thereon, which have since been paid by the purchaser, his or her heirs or assigns, with interest
8 at the rate of one percent per month from the date of payment; (3) such additional expenses as
9 may have been incurred in preparing the list of those to be served with notice to redeem, and for
10 any licensed attorney's title examination incident thereto, with interest at the rate of one percent
11 per month from the date of payment, but the amount which shall be paid, excluding said interest,
12 for such expenses incurred for the preparation of the list of those to be served with notice to

13 redeem required by ~~section fifty-two of this article, §11A-3-52 of this code,~~ and for any licensed
14 attorney's title examination incident thereto, shall not exceed \$200 \$500; and (4) all additional
15 statutory costs paid by the purchaser.

16 (b) (1) The notice shall include:

17 (A) A copy of the redemption certificate issued by the deputy commissioner;

18 (B) An itemized statement of the redemption money to which the purchaser is entitled
19 pursuant to the provisions of this section; and

20 (C) Where, at the time of the redemption, the deputy commissioner has not received from
21 the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served
22 with notice to redeem, ~~and or for any licensed attorney's title examination incident thereto,~~ the
23 deputy commissioner shall also include instructions to the purchaser as to how these expenses
24 may be claimed.

25 (2) Subject to the limitations of this section, the purchaser is entitled to recover any
26 expenses incurred in preparing the list of those to be served with notice to redeem and for any
27 licensed attorney's title examination incident thereto from the date of the sale to the date of the
28 redemption.

29 (c) Where, pursuant to ~~section fifty-six of this article, §11A-3-56 of this code,~~ the deputy
30 commissioner has not received from the purchaser satisfactory proof of the expenses incurred in
31 preparing the notice to redeem, in the form of receipts or other evidence of legal expenses, and
32 or for any licensed attorney's title examination and rendered written documentation used for the
33 preparation of the list incident thereto, in the form of receipts or other evidence thereof, and
34 therefore received from the purchaser as required by said section and delivered to the sheriff the
35 sum of ~~\$200 \$500~~ plus interest thereon at the rate of one percent per month from the date of the
36 sale to the date of redemption, and the sheriff has not received from the purchaser such
37 satisfactory proof of such expenses within 30 days from the date of notification, the sheriff shall
38 refund such amount to the person redeeming and the purchaser is barred from any claim thereto.

39 Where, pursuant to ~~section fifty-six of this article,~~ §11A-3-56 of this code, the deputy
40 commissioner has received from the purchaser and therefore delivered to the sheriff said sum of
41 ~~\$200~~ \$500 plus interest thereon at the rate of one percent per month from the date of the sale to
42 the date of redemption, and the purchaser provides the sheriff within 30 days from the date of
43 notification such satisfactory proof of such expenses, and the amount of such expenses is less
44 than the amount paid by the person redeeming, the sheriff shall refund the difference to the person
45 redeeming.

NOTE: The purpose of this bill is to increase from \$200 to \$500 the limit on additional expenses a purchaser may recover for preparing notice to redeem real estate from the sale of a tax lien, including a title examination by a licensed attorney.

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