

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3194

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PACK

[Introduced March 16, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new
 2 sections, designated §11A-3-5a and §11A-3-6a; and to amend and reenact §11A-3-42 of
 3 said code, all relating to sales of tax liens, delinquent properties, and nonentered lands;
 4 prohibiting delinquent entities from bidding on or purchasing properties at public auction;
 5 providing for rescission of sale and forfeiture of property when a delinquent entity bids on
 6 or purchases properties at public auction; requiring registration for public auctions
 7 requiring signed statement of bidders; and providing that sales of lands by the deputy
 8 commissioner of delinquent and nonentered lands be conducted as provided under this
 9 bill.

Be it enacted by the Legislature of West Virginia:

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

§11A-3-5a. Registration to bid at public auction for tax liens.

1 All individuals, whether they be acting for themselves or as agents for another entity, who
 2 seek to bid at the public auction for tax liens, or for delinquent properties or nonentered lands,
 3 shall first register at the office of the sheriff in person and provide verified identification.

**§11A-3-6a. Persons barred from purchasing tracts offered for sale; signed statement
 required; forfeiture.**

1 (a) Delinquent entities are prohibited from bidding and participating in tax sales and shall
 2 not solicit any person or entity to bid in their stead for the property. A “delinquent entity” means
 3 any person, business, entity, or agent of such business or entity who is delinquent on:

- 4 (1) Property taxes on any real property;
- 5 (2) Special assessments;
- 6 (3) Penalties;
- 7 (4) Interest; or

8 (5) Any state, county, or municipal fees directly on any real property within the state of
9 West Virginia.

10 (b) The sheriff shall require each person who will be bidding at the public auction to sign
11 a statement in a form substantially similar to the following:

12 “West Virginia law prohibits a person who owes delinquent taxes, special assessments,
13 penalties, interest, or costs directly attributable to a prior tax sale of a tract or item of real property
14 listed under West Virginia Code §11A-3-2 from bidding on or purchasing tracts or items of real
15 property at a tax sale. I hereby affirm under the penalties for perjury that I do not owe delinquent
16 taxes, special assessments, penalties, interest, costs directly attributable to a prior tax sale,
17 amounts from a final adjudication in favor of a political subdivision, any civil penalties imposed for
18 the violation of a building code or county ordinance, or any civil penalties imposed by a county
19 health department. I also affirm that I am not purchasing tracts or items of real property on behalf
20 of or as an agent for a person who is prohibited from purchasing at a tax sale. Further, I hereby
21 acknowledge that any successful bid I make in violation of this statement is subject to forfeiture.
22 In the event of forfeiture, the amount by which my bid exceeds the minimum bid on the tract or
23 item or real property under West Virginia Code §11A-3-2 if any, shall be applied to the delinquent
24 taxes, special assessments, penalties, interest, costs, judgments, or civil penalties I owe, and a
25 certificate will be issued to the county executive.”

26 (c) If a person purchases a tract that the person was not eligible to purchase under this
27 section, the sale of the property shall be subject to rescission. If the county assessor determines
28 or is notified not more than six months after the date of the sale that the sale of the property should
29 be forfeited, the assessor shall:

30 (1) Notify the person in writing that the sale is subject to rescission and the property
31 declared to be forfeit if the person does not pay, within 30 days of the notice, the delinquent
32 amounts for the categories of taxes and costs listed in subsection (a) of this section;

33 (2) If the person does not pay the delinquent amounts within 30 days after the notice, apply

34 any unpaid amount of the person's bid to the delinquent entity's taxes and costs listed in
35 subsection (a) of this section; and

36 (3) Remit the amounts owed from a final adjudication or civil penalties in favor of a political
37 subdivision to the appropriate political subdivision.

38 (d) A county assessor may decline to forfeit a sale under this section because of
39 inadvertence or mistake, lack of actual knowledge by the bidder, substantial harm to other parties
40 with interests in the tract or item of real property, or other substantial reasons. If the assessor
41 declines to forfeit a sale, the assessor shall:

42 (1) Prepare a written statement explaining the reasons for declining to rescind the sale;
43 and

44 (2) Retain the written statement as an official record.

§11A-3-42. Lands subject to sale by deputy commissioner.

1 (a) All lands for which no person present at the sheriff's sale, held pursuant to §11A-3-5
2 of this code, has bid the total amount of taxes, interest and charges due, and which were
3 subsequently certified to the Auditor pursuant to §11A-3-8 of this code, and which have not been
4 redeemed from the Auditor within 18 months after such certification, together with all nonentered
5 lands, all escheated lands and all waste and unappropriated lands, shall be subject to sale by the
6 deputy commissioner of delinquent and nonentered lands as further provided in this article.

7 (b) References in this chapter to the sale or purchase of certified or nonentered lands by
8 or from the deputy commissioner shall be construed as the sale or purchase of the tax lien or
9 liens thereon and all auctions for sale of such lands shall be subject to the provisions of §11A-3-
10 5a of this code. All sales by the deputy commissioner through auction or otherwise shall be subject
11 to the restrictions of §11A-3-6a of this code.

NOTE: The purpose of this bill is to establish procedures and restrictions to prevent chronically delinquent persons or entities from bidding on lands or liens at public auctions conducted by the sheriff or deputy commissioner of delinquent and nonentered lands.

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