

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

Introduced

### House Bill 3253

FISCAL  
NOTE

BY DELEGATE HAMRICK

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

1 A BILL to amend and reenact §11A-1-3 and §11A-1-8 of the Code of West Virginia, 1931, as  
 2 amended; to amend and reenact §11A-2-13 of said code; and to amend and reenact  
 3 §11A-3-2 of said code, all relating to limiting the amount of fees for late payment of  
 4 property taxes; limiting the amount of charges that may be levied on delinquent property;  
 5 providing that no penalty may exceed the lesser of \$1000 or the amount of actual tax due;  
 6 limiting publication charges; and providing for a limitation of late fees.

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

**ARTICLE 1. ACCRUAL AND COLLECTION OF TAXES.**

**§11A-1-3. Accrual; time for payment; interest on delinquent taxes.**

1 (a) All current taxes assessed on real and personal property may be paid in two  
 2 installments. The first installment shall be payable on September first of the year for which the  
 3 assessment is made, and shall become delinquent on October first; the second installment shall  
 4 be payable on the first day of the following March and shall become delinquent on April first. Taxes  
 5 paid on or before the date when they are payable, including both first and second installments,  
 6 shall be subject to a discount of two and one-half percent. If taxes are not paid on or before the  
 7 date on which they become delinquent, including both first and second installments, interest at  
 8 the rate of ~~nine~~ five percent per annum shall be added from the date they become delinquent until  
 9 paid: Provided, That other than a statutory late fee and actual costs, no other charges may be  
 10 levied.

11 (b) With regard to real and personal property taxes, when any return, claim, statement or  
 12 other document is required to be filed, or any payment is required to be made within a prescribed  
 13 period or before a prescribed date, and the applicable law requires delivery to the office of the  
 14 sheriff of a county of this state, the methods prescribed in §11-10-5f of this code for timely filing  
 15 and payment to the Tax Commissioner or Department of Tax and Revenue shall be the same  
 16 methods utilized for timely filing and payment with such sheriff. Nothing contained in this  
 17 subsection (b) shall prohibit the sheriff from establishing additional methods of payment in

18 accordance with the provisions of §11A-1-8a of this article.

**§11A-1-8. Notice of time and place for payment; mailing of tax tickets.**

1 (a) The sheriff may give notice by posting at not less than six public places in each  
2 magisterial district, for at least ten days before the time appointed, that between July 15, and the  
3 thirty-first day of August he or she will attend at one or more of the most public and convenient  
4 places in each district, such places to be specified in the notice, for the purpose of receiving taxes  
5 due by the people residing or paying taxes in such district. The notice shall also state that those  
6 who pay the first installment of their taxes on or before September 1, will be entitled to a discount  
7 of two and one-half percent. Like notice may be given that between January 15, and the twenty-  
8 eighth day of February he or she will again appear in each district for the collection of taxes, and  
9 that those who pay their second installment on or before March 1 will be entitled to the same  
10 discount. Failure of the sheriff to post such lists shall not impair the right to collect such taxes, the  
11 right to collect any interest or penalty imposed as a result of the failure to pay such taxes or the  
12 methods of enforcing the payment of such taxes, interest or penalty: Provided, That no such  
13 penalty imposed may exceed \$1,000, the amount of tax due, whichever is less, for a property  
14 owner, regardless of how many properties the individual owns.

15 The county commission of any county may order that the above notice shall also be given  
16 by advertisement. Such an order, once entered, shall continue in effect until rescinded by the  
17 county commission. Upon entry of such order, the sheriff shall, besides posting as required above,  
18 publish the proper notice as a Class II legal advertisement in compliance with the provisions of  
19 §59-3-1 et seq of this code, and the publication area for such publication shall be the county. Such  
20 notice shall be so published within 14 consecutive days next preceding July 15, or January 15,  
21 as the case may be. For every failure so to advertise, the sheriff shall forfeit \$100.

22 Notwithstanding the foregoing provisions, the sheriff shall send to every person owing real  
23 or personal property taxes a copy of such taxpayers annual tax ticket or tickets showing what tax  
24 is due and how such tax may be paid. Such copy shall be sent to the last known address of such

25 taxpayer by first class United States mail.

26 Failure of the sheriff to send or failure of the taxpayer to receive such copy shall not impair  
27 the right to collect such taxes, the right to collect any interest or penalty imposed as a result of  
28 the failure to pay such taxes or the method of enforcing the payment of such taxes, interest or  
29 penalty.

30 At such time as the sheriff prepares the delinquent list for real property, he or she shall  
31 compare such list with a copy of the landbooks most recently delivered by the assessor to the  
32 board of review and equalization pursuant to section nineteen, article three, chapter eleven of this  
33 code. The assessor shall make a copy of said landbooks available to the sheriff. If property on  
34 the delinquent list should appear as a transfer on said landbooks with the delinquent owner as  
35 the transferor, the sheriff shall send to the transferee at his or her last known address by first class  
36 United States mail a copy of the annual tax ticket or tickets showing what taxes are due upon the  
37 real property of such transferee and how they may be paid as prescribed in this section.

38 Failure of the sheriff to send or failure of the taxpayer to receive such copy shall not impair  
39 the right to collect such taxes, the right to collect any interest or penalty imposed as a result of  
40 the failure to pay such taxes or the method of enforcing the payment of such taxes, interest or  
41 penalty.

42 (b) In addition to the notice of real or property taxes owed, provided in this section, the  
43 county commission of any county may order that the sheriff include in the mailing notice of any  
44 taxes or other fees owed to the county or a municipality in the county.

45 (c) (1) The sheriff may accept credit cards in payment of any of the taxes, interest or  
46 penalty described in this section. The type of credit card accepted shall be at the discretion of the  
47 sheriff.

48 (2) The sheriff may set a fee to be added to each credit card transaction equal to the  
49 charge paid by the state, county, sheriff or taxpayer for the use of the credit card by the taxpayer.  
50 Except for fees imposed pursuant to this subdivision, no other fees for the use of a credit card

51 may be imposed upon the taxpayer.

52 (3) Except as provided in subsection (a) of this section, in no event shall the sheriff  
53 discount or otherwise reduce the tax liability of a taxpayer who has elected to use a credit card  
54 for the payment of the tax liability.

55 (d) The Tax Commissioner may promulgate legislative rules to provide for the payment of  
56 tax liability by installment payments other than those prescribed in subsection (a) of this section.

**ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING PAYMENT.**

**§11A-2-13. Publication and posting of delinquent tax lists.**

1 A copy of each of the delinquent lists shall be posted at the front door of the courthouse  
2 of the county at least two weeks before the session of the county commission at which they are  
3 to be presented for examination. At the same time a copy of each list shall be published as a  
4 Class I-O legal advertisement in compliance with the provisions of §59-3-1 et seq of this code,  
5 and the publication area for such publication shall be the county. Only the aggregate amount of  
6 the taxes owed by each person need be published. To cover the costs of preparing, publishing  
7 and posting the delinquent lists, a publication charge of \$20 shall be added to the taxes and  
8 interest already due on each item listed and shall not be counted as part of the penalties or fess  
9 limited by §11A-2-1 of this code.

10 Any person whose taxes were delinquent on May first may have his or her name removed  
11 from the delinquent lists prior to the time the same is delivered to the newspapers for publication  
12 by paying to the sheriff the full amount of the taxes and costs owed by such person at the date of  
13 such redemption. The sheriff shall collect a charge of only \$3 if redemption is made before the list  
14 is delivered for publication. Costs collected by the sheriff hereunder which are not expended for  
15 publication shall be paid into the general county fund.

**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

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 fourteen business days prior to the date of sale must be paid by cashier check, money order,  
 18 certified check or United States currency. Payment must be received in the tax office by the close  
 19 of 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 the county.

27 (b) In addition to such publication, no less than 30 days prior to the sale, the sheriff shall  
28 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 section three of this article; (3) to each other person with  
32 an 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; and (4) in the case of property which includes a mineral interest  
35 but does not include an interest in the surface other than an interest for the purpose of developing  
36 the minerals, to each person who has in writing delivered to the sheriff, on a form prescribed by  
37 the Tax Commissioner, a request for such notice which identifies the person as an owner of an  
38 interest in the surface of real property that is included in the boundaries of such property:

39 *Provided*, That in a case where one owner owns more than one parcel of real property upon which  
40 taxes are delinquent, the sheriff may, at his or her option, mail separate notices to the owner and  
41 each lienholder for each parcel or may prepare and mail to the owner and each lienholder a single  
42 notice which pertains to all such delinquent parcels. If the sheriff elects to mail only one notice,  
43 that notice shall set forth a legally sufficient description of all parcels of property on which taxes  
44 are delinquent. In no event shall failure to receive the mailed notice by the landowner or lienholder  
45 affect the validity of the title of the property conveyed if it is conveyed pursuant to §11A-3-27 or

46 §11A-3-59 of this code.

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

50 (2) To cover the cost of preparing and mailing notice to the landowner, lienholder or any  
51 other person entitled thereto pursuant to this section, a charge of \$10 per addressee shall be  
52 added to the taxes, interest and charges already due on each item and all such charges shall be  
53 stated in the list as a part of the total amount due: Provided, That any fees assessed under this  
54 subsection may only be imposed once for all delinquencies of the same person mailed to the  
55 same mailing address.

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 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 case, the sheriff shall include but \$3 of the costs provided in this  
60 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 limit the amount of fees for late payment of property taxes; limit the amount of charges that may be levied on delinquent property; provide that no penalty may exceed the lesser of \$1000 or the amount of actual tax due; limit publication charges; and provide for a limitation of late fees.

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