

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]

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

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

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

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

14 (d) If the address of a person is unknown to the purchaser and cannot be discovered by
15 due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0
16 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the
17 publication area for the publication shall be the county in which the real property is located. If
18 service by publication is necessary, publication shall be commenced within 60 days following the
19 request for the notice, and a copy of the notice shall, at the same time, be sent pursuant to

20 subsection (b) or (c) of this section, to the last known address of the person to be served. The
21 return of service of the notice and the affidavit of publication, if any, shall be in the manner provided
22 for process generally and shall be filed and preserved by the State Auditor in his or her office,
23 together with any return receipts for notices sent by certified mail.

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

§11A-3-59. Deed to purchaser; record.

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

10 This deed, made this _____ day of _____, 20____, by and between
11 _____, deputy commissioner of delinquent and nonentered lands of _____

12 County, West Virginia, grantor, and _____, purchaser (or
13 _____ heir, devisee, assignee of _____, purchaser)
14 grantee, witnesseth, that

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

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

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

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

35 Witness the following signature:

36 _____

37 Deputy Commissioner of Delinquent and Nonentered Lands of _____ County

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

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

47 Upon payment of the final costs and fees required by this article, the purchaser shall have
48 the right to inspect and perform necessary and reasonable repairs for the preservation of the real
49 property: *Provided*, That the current occupant has a duty to preserve the property to the best of his
50 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.