

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **Senate Bill 683**

By Senator Smith (Mr. President)

[Introduced March 4, 2025; referred  
to the Committee on Government Organization]

1 A BILL to amend and reenact §11A-3-44, §11A-3-45, and §11A-3-46 of the Code of West Virginia,  
2 1931, as amended, relating to the sale of tax liens and non-entered, escheated and waste  
3 and unappropriated lands; providing all lands subject to sale under this article be certified  
4 before July 1; providing all land sales be completed within 150 days after the auditor has  
5 certified the lands; and clarifying payment shall be made to the sheriff of the county in  
6 which the property is situated.

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

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

**§ 11A-3-44. Auditor to certify list of lands to be sold; lands so certified are subject to sale.**

1 On or after March 1 and on or before ~~August~~ July 1 of each year, the Auditor shall certify a  
2 list of all lands subject to sale under this article. He or she shall note the fact of certification on the  
3 land record in his or her office. Upon completion of the list for certification, a charge of \$25 shall be  
4 added to the taxes, interest, and charges already due on each tract listed, to cover the costs  
5 incurred by the Auditor in the preparation of the list, and in the event of sale or redemption, the  
6 same shall be collected and paid into the operating fund provided for in this article.

7 Escheated lands and waste and unappropriated lands shall be listed separately. The list  
8 shall be arranged by districts and, except in the case of waste and unappropriated lands,  
9 alphabetically by the name of the owner. The list shall state as to each item listed the information  
10 required by §11A-3-35 of this code to be set forth in the land record in the Auditor's office, and shall  
11 specify as to each tract listed as delinquent or non-entered the amount of taxes and interest due or  
12 chargeable thereon on the date of certification, the publication and other charges due, with  
13 interest, and the total currently due. The specification of taxes due or chargeable shall as to  
14 delinquent land commence with those for nonpayment of which it was certified, and as to non-  
15 entered land with those properly chargeable to it for the first year of nonentry, subject to the

provisions of the proviso set forth in §11A-3-38(b) of this code.

All items certified by the Auditor shall be numbered consecutively. All subsequent entries, applications, or proceedings under this article in respect to any item shall refer to its number and the year of certification. Notwithstanding any provisions of this article to the contrary, all tracts, lots, or parcels certified to the Auditor as a unit may be treated by the Auditor as a single item for purposes of certification. Subject to the provisions of this section, the Auditor shall prescribe a form for the list and shall provide in such form adequate space to show the subsequent history and final disposition of each item certified.

The list shall be made in quadruplicate. The Auditor shall keep the original and send one copy to the clerk of the county commission, one to the sheriff, and one to the West Virginia Land Stewardship Corporation created pursuant to §31-21-1 *et seq.* of this code. The clerk of the county commission shall bind his or her copy in a permanent book to be labeled "Report of Auditor of Delinquent and Non-Entered Lands" and shall note the fact of the certification of each item on his or her record of delinquent lands. Such copies delivered to the clerk of the county commission and the sheriff shall become permanent records, and shall be preserved as such in the offices of the Auditor and the clerk of the county commission.

**§11A-3-45. Auditor to hold annual auction.**

(a) Each tract or lot certified by the Auditor pursuant to §11A-3-44 of this code shall be sold by him or her at public auction at the courthouse of the county to the highest eligible bidder during the courthouse's normal operating hours on any business working day within ~~90~~ 150 days after the Auditor has certified the lands as required by §11A-3-44 of this code. The payment for any tract or lot purchased at a sale shall be made by check, U. S. currency, or money order payable to the Auditor Sheriff of the county in which the property is situated and delivered before the close of business on the day of sale. No part or interest in any tract or lot subject to such sale, or any part thereof of interest therein, that is less than the entirety of such unredeemed tract, lot, or interest, as the same is described and constituted as a unit or entity in said list, shall be offered for sale or sold

at such sale. If the sale shall not be completed on the first day of the sale, it shall be continued from day to day between the same hours until all the land shall have been offered for sale. Bidding at an auction held pursuant to this section constitutes transacting business in this state for purposes of §31B-10-1001 *et seq.*, §31D-15-1501 *et seq.*, and §31E-14-1401 *et seq.* of this code.

(b) A private, nonprofit, charitable corporation, incorporated in this state, which has been certified as a nonprofit corporation pursuant to the provisions of Section 501(c)(3) of the federal Internal Revenue Code, as amended, which has as its principal purpose the construction of housing or other public facilities and which notifies the Auditor of an intention to bid and subsequently submits a bid that is not more than five percent lower than the highest bid submitted by any person or organization which is not a private, nonprofit, charitable corporation as defined in this subsection, shall be sold the property offered for sale at public auction by the Auditor pursuant to the provisions of this section at the public auction as opposed to the highest bidder.

The nonprofit corporation referred to in this subsection does not include a business organized for profit, a labor union, a partisan political organization, or an organization engaged in religious activities, and it does not include any other group which does not have as its principal purpose the construction of housing or public facilities.

(c) To attain eligibility to bid at a public auction held pursuant to this section, a potential bidder must register in advance of such public auction with the Auditor's office or complete and execute a notarized affidavit affirming that they meet the requirements set forth in this article on the day of the sale. Registration shall be done in accordance with rules promulgated by the State Auditor's office. The Auditor may deregister or refuse to register a potential bidder who:

(1) Has failed to make a payment owed at a prior auction held pursuant to this section;

(2) At the time of registration is delinquent in the payment of real property tax, for which registrant is the most recent owner of record, to any county in this state;

(3) Has a history of noncompliance with code enforcement violations issued by a county or municipality pursuant to §7-1-3ff and §8-12-16 of this code;

(4) At the time of registration is subject to legal proceedings in any county or municipality that are related to code enforcement violations regarding real property owned by him or her; and

(5) Within the preceding five years prior to the auction, has failed to comply with a valid raze or repair order (or any other similar order) issued by a county or municipality.

(d) Potential bidders who are domestic or foreign entities as defined in chapters 31B, 31D, and 31E of this code must show proof at the time of their registration that they properly registered with the Secretary of State's office and are authorized to conduct business in this state.

(e) In order to effectuate the purposes of this section, the Auditor may promulgate procedural rules, interpretive rules, and legislative rules, including emergency rules, or any combination thereof, in accordance with §29A-3-1 *et seq.* of this code.

**§11A-3-46. Publication of notice of auction.**

(a) Once a week for three consecutive weeks prior to the auction required in §11A-3-45 of this code, the Auditor shall publish notice of the auction 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 such publication shall be the county.

The notice shall be in form or effect as follows:

Notice is hereby given that the following described tracts or lots of land in the County of \_\_\_\_\_, have been certified by the Auditor of the State of West Virginia, for sale at public auction. The lands will be offered for sale by the undersigned Auditor at public auction in (specify location) the courthouse of \_\_\_\_\_ County between the hours of \_\_\_\_\_ in the morning and \_\_\_\_\_ in the afternoon, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Each tract or lot as described below will be sold to the highest eligible bidder at the auction. The payment for any tract or lot purchased at a sale shall be made by check or money order payable to the Auditor ~~Sheriff of the county in which the property is located~~ and delivered before the close of business on the day of the sale. If any of said tracts or lots remain unsold following the

16 auction, they will be subject to later sale without additional advertising or public auction. All  
17 potential bidders must register in advance of the auction with the Auditor's office. Citizens of or  
18 entities organized in or controlled by citizens of any country designated as a Country of Particular  
19 Concern by the Department of State of the United States of America are ineligible from  
20 participating in the auction held pursuant to this section. Bidding at the auction constitutes  
21 transacting business in this state for purposes of §31B-10-1001 *et seq.*, §31D-15-1501 *et seq.*,  
22 and §31E-14-1401 *et seq.* of this code. The Auditor's sale may include tracts or lots remaining  
23 unsold from a previous auction not required by law to be readvertised and described for this  
24 subsequent auction of those same tracts and lots. All sales are subject to the approval of the  
25 Auditor of the State of West Virginia.

26 (here insert description of advertised lands to be sold)

27 Any of the aforesaid tracts or lots may be redeemed by any person entitled to pay the taxes  
28 thereon, the owner of the same whose interest is not subject to separate assessment, or any  
29 person having a lien on the same, or on an undivided interest therein, at any time prior to the sale  
30 by payment to the Auditor of the total amount of taxes, interest, and charges due thereon up to the  
31 date of redemption. Lands listed above as escheated or waste and unappropriated lands may not  
32 be redeemed.

33 Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_,  
34 20\_\_\_\_\_.

35 \_\_\_\_\_ Auditor of the State of West Virginia.

36 (b) The description of lands required in the notice shall be in the same form as the list  
37 certifying said lands for sale. If the Auditor is required to auction lands certified to him or her in any  
38 previous years, pursuant to §11A-3-48 of this code, he or she shall include such lands in the  
39 auction without further advertisement, with reference to the year of certification and the item  
40 number of the tract or interest.

41 (c) To cover the cost of preparing and publishing the notice, a charge of \$30 shall be added

42 to the taxes, interest, and charges due on the delinquent and nonentered property.

NOTE: The purpose of this bill is to create a more consistent process when handling the sale of tax liens and nonentered, escheated and waste and unappropriated lands by providing all lands subject to sale under this article be certified before July 1; providing all land sales be completed within 150 days after the auditor has certified the lands; and clarifying payment shall be made to the sheriff of the county in which the property is situated.

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