

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 683

BY SENATOR SMITH (MR. PRESIDENT)

[Reported March 18, 2025, from the Committee on
Government Organization]

1 A BILL to amend and reenact §11A-2-14, §11A-3-2, §11A-3-44, §11A-3-45, §11A-3-46, §11A-3-
2 55, and §11A-3-65 of the Code of West Virginia, 1931, as amended, relating to the sale
3 of certain properties subject to delinquent tax liens; modifying the dates designated for
4 certain actions required in the said sale process; requiring the sheriff's office to deliver
5 certified notices of impending sale by personal service to certain owners of record,
6 residents, or occupants prior to selling delinquent property; allowing the State Auditor to
7 engage a private auctioneer for selling certain tax delinquent properties; requiring highest
8 bidder to pay 10 percent buyer's fee to private auctioneer under certain circumstances;
9 requiring highest bidder to pay \$50 of total bid amount to State Auditor and remainder of
10 bid amount to county sheriff; modifying the process for providing notice to redeem to
11 certain delinquent taxpayers; and modifying the distribution of surplus proceeds obtained
12 from certain tax delinquent property sales.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING PAYMENT.

§11A-2-14. Correction of delinquent lists by county commission; certification to Auditor; recordation.

1 The sheriff shall on or before ~~May~~ June 15 of each year present the delinquent lists to the
2 county commission for examination. The county commission having become satisfied that the
3 lists are correct, or having corrected them if erroneous, shall direct the clerk of the county
4 commission to certify a copy of each list, pertaining to real property, to the Auditor not later than
5 ~~June~~ July 1 of each year. The original lists shall be preserved by the clerk in his or her office, and
6 the list of delinquent real estate shall be recorded in a permanent book to be kept by him or her
7 for that purpose.

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.

(a) On or before ~~the~~ September 10 of each year, the sheriff shall prepare a second list of delinquent lands, which shall include all real estate in his or her county remaining delinquent as of the first day of September, together with a notice of sale, in form or effect as follows:

Notice is hereby given that the following described tracts or lots of land or undivided interests therein in the County of _____ and the tax liens that encumber the same which are delinquent for the nonpayment of taxes for the year (or years) 20_____, will be certified to the Auditor for disposition pursuant to West Virginia Code §11A-3-44 on the 31st day of October, 20_____.

Upon certification to the Auditor, tax liens on each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein, shall be sold at public auction to the highest bidder in an amount which shall be not ~~be~~ less than the taxes, interest, and charges which ~~shall~~ be are due thereon to the date of sale, as set 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
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If any ~~of said~~ tracts or lots remain unsold following the auction, they shall be subject to sale by the Auditor without additional advertising or public auction, such terms as the Auditor deems appropriate pursuant to §11A-3-48 of this code.

Any of the ~~aforsaid~~ tracts or lots, or part thereof or an undivided interest therein, may be redeemed by the payment to the undersigned sheriff (or collector) before certification to the Auditor, of the total amount of taxes, interest, and charges due thereon up to the date of redemption by credit card, cashier's check, money order, certified check, or United States currency. Payment must be received in the tax office by the close of business on the last business day prior to the certification.

After certification to the Auditor, any of the aforesaid tracts or lots may be redeemed by any person entitled to pay the taxes thereon, the owner of the same whose interest is not subject to separate assessment, or any person having a lien on the same, or on an undivided interest therein, at any time prior to the sale by payment to the Auditor of the total amount of taxes, interest, and charges due thereon up to the date of redemption.

Given under my hand this _____ day of

_____, 20_____.

Sheriff (or collector).

The sheriff shall publish the list and notice prior to the sale date fixed in the notice 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~~ the publication ~~shall be~~ is the county.

(b) In addition to such publication, ~~no~~ not less than 30 days prior to the sale by the Auditor pursuant to §11A-3-44 of this code, the sheriff shall send a notice of the delinquency and the date of sale by certified mail to:

(1) ~~To~~ The last known address of each person listed in the land books whose taxes are delinquent;

(2) ~~to~~ Each person having a lien on real property upon which the taxes are due as disclosed by a statement filed with the sheriff pursuant to the provisions of §11A-3-3 of this code;

(3) ~~to~~ Each other person with an interest in the property or with a fiduciary relationship to a person with an interest in the property who has in writing delivered to the sheriff on a form prescribed by the Tax Commissioner a request for such notice of delinquency; and

(4) In the case of property which includes a mineral interest but does not include an interest in the surface other than an interest for the purpose of developing the minerals, to each person who has in writing delivered to the sheriff, on a form prescribed by the Tax Commissioner, a

request for such notice which identifies the person as an owner of an interest in the surface of real property that is included in the boundaries of such property. ~~Provided, That~~

(c) In any case where the sheriff does not receive a signature in response to the notice sent by certified mail, the sheriff's tax deputy, or designee, shall deliver the notice by personal service to the physical location of the subject property to obtain a receipt signature from each of the property's owners of record. For residential property where the owner of record does not reside at the property, the tax deputy or designee shall deliver the notice by personal service to any residents or occupants of the property and seek location information of all owners of record from the residents or occupants. If the location information is obtained from the residents or occupants, the tax deputy or designee shall deliver the notice by personal service to that location to obtain the owner's receipt signature.

(d) In a case where one owner owns more than one parcel of real property upon which taxes are delinquent, the sheriff may, at his or her option, mail separate notices to the owner and each lienholder for each parcel or may prepare and mail to the owner and each lienholder a single notice which pertains to all such delinquent parcels. If the sheriff elects to mail only one notice, that notice shall set forth a legally sufficient description of all parcels of property on which taxes are delinquent. In ~~no event shall~~ any event, failure to receive the mailed notice by the landowner or lienholder does not affect the validity of the title of the property conveyed if it is conveyed pursuant to §11A-3-27 or §11A-3-59 of this code.

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

~~(d)~~ (f) To cover the cost of preparing and mailing notice to the landowner, lienholder, or any other person entitled thereto pursuant to this section, a charge of \$10 per addressee shall be added to the taxes, interest, and charges already due on each item and all such charges shall be stated in the list as a part of the total amount due.

74 ~~(e)~~ (g) Any person whose taxes were delinquent on the first day of September may have
75 his or her name removed from the delinquent list prior to the time the same is delivered to the
76 newspapers for publication by paying to the sheriff the full amount of taxes and costs owed by the
77 person at the date of such redemption. In such case, the sheriff shall include but \$3 of the costs
78 provided in this section in making such redemption. Costs collected by the sheriff under this
79 section which are not expended for publication and mailing shall be paid into the General County
80 Fund.

§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
2 a list of all lands subject to sale under this article. He or she shall note the fact of certification on
3 the land record in his or her office. Upon completion of the list for certification, a charge of \$25
4 shall be added to the taxes, interest, and charges already due on each tract listed, to cover the
5 costs incurred by the Auditor in the preparation of the list. ~~and~~ In the event of sale or redemption,
6 the 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
11 shall specify as to each tract listed as delinquent or non-entered the amount of taxes and interest
12 due or 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
16 provisions of the proviso set forth in §11A-3-38(b) of this code.

17 All items certified by the Auditor shall be numbered consecutively. All subsequent entries,
18 applications, or proceedings under this article ~~in~~ with respect to any item shall refer to its number

19 and the year of certification. Notwithstanding any provisions of this article to the contrary, all tracts,
20 lots, or parcels certified to the Auditor as a unit may be treated by the Auditor as a single item for
21 purposes of certification. Subject to the provisions of this section, the Auditor shall prescribe a
22 form for the list and shall provide in such form adequate space to show the subsequent history
23 and final disposition of each item certified.

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

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

1 (a) Each tract or lot certified by the Auditor pursuant to §11A-3-44 of this code shall be
2 sold by him or her at public auction at the courthouse of the county to the highest eligible bidder
3 during the courthouse's normal operating hours on any business working day within ~~90~~ 150 days
4 after the Auditor has certified the lands as required by §11A-3-44 of this code.

5 (1) The Auditor, in his or her sole discretion, may engage a private auctioneer to conduct
6 the annual public auction. When a private auctioneer is engaged and the amount of the sale
7 exceeds the tax liability on the tract or lot, a buyer's fee equal to 10 percent of each successful
8 bid shall be imposed upon the bidder and paid to the auctioneer at the time the sale is
9 consummated. The buyer's fee is in addition to the full bid amount.

10 (2) The payment for any tract or lot purchased at a sale shall be made by check, U. S.
11 currency, or money order payable as one payment to the Auditor and in the amount of \$50 and
12 the remainder of the total to the sheriff of the county in which the property is situated, both of

13 which shall be delivered before the close of business on the day of sale. ~~No~~ A part or interest in
14 any tract or lot subject to such sale, or any part thereof of interest therein, that is less than the
15 entirety of ~~such~~ the unredeemed tract, lot, or interest, as the same is described and constituted
16 as a unit or entity in said list, ~~shall~~ may not be offered for sale ~~or~~ nor sold at ~~such~~ the sale. If the
17 sale ~~shall not be~~ is not completed on the first day of the sale, it shall be continued from day to day
18 between the same hours until all the land ~~shall have~~ has been offered for sale. Bidding at an
19 auction held pursuant to this section constitutes transacting business in this state for purposes of
20 §31B-10-1001 *et seq.*, §31D-15-1501 *et seq.*, and §31E-14-1401 *et seq.* of this code.

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

29 The nonprofit corporation referred to in this subsection does not include a business
30 organized for profit, a labor union, a partisan political organization, ~~or~~ an organization engaged in
31 religious activities, nor ~~and it does not include~~ any other group ~~which does not have~~ unless that
32 other group has as its principal purpose the construction of housing or public facilities.

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

38 (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.

(b) 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, U. S. currency, or money order payable as one payment to the Auditor ~~and in the amount of \$50 and the remainder of the total to the sheriff of the county in which the property is situated, both of which shall be~~ delivered before the close of business on the day of the sale. When the Auditor has engaged a private auctioneer for the sale, and the sale exceeds the tax liability on the tract or lot, the highest eligible bidder also shall pay to the auctioneer a buyer's fee equal to 10 percent of the successful bid. The buyer's fee shall be paid at the time the sale is consummated. If any of said tracts or lots remain unsold following the auction, they will be subject to later sale without additional advertising or public auction. All potential bidders must register in advance of the auction with the Auditor's office. Citizens of or entities organized in or controlled by citizens of any country designated as a Country of Particular Concern by the Department of State of the United States of America are ineligible from participating in the auction held pursuant to this section. Bidding at the auction 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. The Auditor's sale may include tracts or lots remaining unsold from a previous auction not required by law to be readvertised and described for this subsequent auction of those same tracts and lots. All sales are subject to the approval of the Auditor of the State of West Virginia.

(here insert description of advertised lands to be sold)

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

Given under my hand this _____ day of _____,
20_____.

_____ Auditor of the State of West Virginia.

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

~~(e)~~ (d) To cover the cost of preparing and publishing the notice, a charge of \$30 shall be added to the taxes, interest, and charges due on the delinquent and non-entered property.

§11A-3-55. Service of notice.

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

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

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

(d) If the address of a person is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class

16 III-0 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
22 provided for process generally and shall be filed and preserved by the State Auditor in his or her
23 office, 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
26 same time the Auditor issues the required notices by certified mail, the Auditor shall forward a
27 copy of the notice sent to the delinquent taxpayer by first class mail, or in the manner provided
28 for serving process commencing a civil action, addressed to "Occupant", to the physical mailing
29 address for the subject property. The physical mailing address for the subject property shall be
30 supplied by the purchaser of the property, pursuant to the provisions of §11A-3-52 of this code.
31 Where the mail is not deliverable to an address at the physical location of the subject property,
32 the copy of the notice shall be sent to any other mailing address that exists to which the notice
33 would be delivered to an occupant of the subject property.

34 (f) Upon failure of service of the notice to redeem on any person, the Auditor shall inform
35 the purchaser of said failure. The purchaser shall then search the county records for a new
36 alternative address for that person to provide to the Auditor. If a new alternative address is found,
37 this notice to redeem shall be served by personal service. In the event that the subsequent
38 service fails, or no alternative address is found, the notice shall be served by publication in the
39 manner provided under subsection (d) of this section. Prior to the request to serve by publication
40 under this instance, the purchaser shall provide the Auditor with a signed and notarized affidavit

41 stating that they have searched the county records and were unable to find an alternative address
42 through due diligence and request that publication be made to satisfy the notice requirement.

§11A-3-65. Right of former owner to surplus proceeds.

1 The former owner of any delinquent or non-entered lands sold pursuant to §11A-3-45 and
2 §11A-3-48 of this code, or his or her heirs or assigns, shall be entitled to the surplus received
3 from the sale over and above the taxes and interest charged or chargeable thereon including all
4 costs of the sale, if ~~his or their claim be~~ the claim is filed in the circuit court of the county in which
5 the land is situated within two years after the date of confirmation of ~~said the~~ the sale. If ~~no a~~ a claim is
6 not filed with the court within the ~~two years, then such~~ two-year period, then the surplus shall be
7 paid by the sheriff to the Auditor as follows: 50 percent for credit to the general school fund; 25
8 percent for credit to the state's General Revenue Fund; and 25 percent for credit to the Auditor's
9 Land Operating Fund provided in §11A-3-36 of this code.