

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 799

By Senator Smith (Mr. President)

[Introduced March 18, 2025; referred

to the Committee on Government Organization; and then to the Committee on Finance]

1 A BILL to amend and reenact §11A-3-45 and §11A-3-65 of the Code of West Virginia, 1931, as
 2 amended, relating to permitting the State Auditor to hire a private auctioneer to conduct
 3 annual auction of land sales.

Be it enacted by the Legislature of West Virginia:

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

§11A-3-45. 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 sold
 2 by him or her at public auction at the courthouse of the county to the highest eligible bidder during
 3 the courthouse’s normal operating hours on any business working day within 90 days after the
 4 Auditor has certified the lands as required by §11A-3-44 of this code. Provided, That the Auditor, in
 5 his or her sole discretion, may engage a private auctioneer to conduct such annual public auction,
 6 and in such instances, a buyer's fee equal to 10 percent of each successful bid shall be imposed
 7 upon the bidder and paid to the private auctioneer at the time the sale is consummated. *Provided,*
 8 *however,* That there shall be no buyer's fee imposed on sales not exceeding the tax liability on the
 9 tract or lot. The payment for any tract or lot purchased at a sale shall be made by check, U. S.
 10 currency, or money order payable to the Auditor sheriff of the county in which the property is
 11 located and delivered before the close of business on the day of sale. No part or interest in any
 12 tract or lot subject to such sale, or any part thereof of interest therein, that is less than the entirety
 13 of such unredeemed tract, lot, or interest, as the same is described and constituted as a unit or
 14 entity in said list, shall be offered for sale or sold at such sale. If the sale shall not be completed on
 15 the first day of the sale, it shall be continued from day to day between the same hours until all the
 16 land shall have been offered for sale. Bidding at an auction held pursuant to this section
 17 constitutes transacting business in this state for purposes of §31B-10-1001 *et seq.*, §31D-15-1501
 18 *et seq.*, and §31E-14-1401 *et seq.* of this code.

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

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

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

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

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

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

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

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

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

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

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

1 The former owner of any delinquent or nonentered lands sold pursuant to sections forty-
 2 five and forty-eight of this article, his or her heirs or assigns, shall be entitled to the surplus
 3 received from the sale over and above the taxes and interest charged or chargeable thereon
 4 including all costs of the sale, if his or her, or their claim be filed in the circuit court of the county in
 5 which the land is situated within two years after the date of confirmation of said sale. If no claim is
 6 filed with the court within the two years, then such surplus shall be paid by the sheriff to the Auditor
 7 ~~for credit to the general school fund.~~ as follows: 50% for credit to the general school fund; 25% for
 8 credit to the state's General Revenue Fund; and 25% for credit to the Auditor's Land Operating
 9 Fund referenced in §11A-3-36 of this code.

NOTE: The purpose of this bill is to permit the State Auditor to hire a private auctioneer to conduct annual auction of land sales

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