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WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993

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ENROLLED

HOUSE BILL No. 2781

(By Delegates Reed, Manuel, Huffman, Altman,
Trump, Tribett + Faircloth)

— ● —

Passed April 10, 1993

In Effect July 1, 1993 ~~Passage~~

ENROLLED
H. B. 2781

(By DELEGATES REED, MANUEL, HUFFMAN,
WHITMAN, TRUMP, TRIBETT AND FAIRCLOTH)

[Passed April 10, 1993; in effect July 1, 1993.]

AN ACT to amend and reenact section three, article one, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections ten and thirteen, article two of said chapter; and to amend and reenact articles three and four of said chapter, all relating to delinquent taxes and the sale of tax liens on land for which taxes have become delinquent; and to the sale of escheated lands.

Be it enacted by the Legislature of West Virginia:

That section three, article one, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that sections ten and thirteen, article two of said chapter, be amended and reenacted; and that articles three and four of said chapter be amended and reenacted, all to read as follows:

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
- 2 property may be paid in two installments. The first
- 3 installment shall be payable on September first of the
- 4 year for which the assessment is made, and shall become
- 5 delinquent on October first; the second installment shall
- 6 be payable on the first day of the following March and

7 shall become delinquent on April first. Taxes paid on
8 or before the date when they are payable, including both
9 first and second installments, shall be subject to a
10 discount of two and one-half percent. If taxes on
11 personal property are not paid on or before the date on
12 which they become delinquent, including both first and
13 second installments, interest at the rate of nine percent
14 per annum shall be added from the date they become
15 delinquent until paid. If taxes on real property are not
16 paid on or before the date on which they become
17 delinquent, including both first and second installments,
18 interest at the rate of twelve percent per annum shall
19 be added from the date they become delinquent until
20 paid.

21 (b) With regard to real and personal property taxes,
22 when any return, claim, statement or other document is
23 required to be filed, or any payment is required to be
24 made within a prescribed period or before a prescribed
25 date, and the applicable law requires delivery to the
26 office of the sheriff of a county of this state, the methods
27 prescribed in section five-f, article ten, chapter eleven
28 of this code for timely filing and payment to the tax
29 commissioner or department of tax and revenue shall be
30 the same methods utilized for timely filing and payment
31 with such sheriff. Nothing contained in this subsection
32 (b) shall prohibit the sheriff from establishing additional
33 methods of payment in accordance with the provisions
34 of section eight-a of this article.

ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING PAYMENT.

§11A-2-10. Sale of tax liens on real estate.

1 In addition to the methods for the collection of taxes
2 provided for in this article, tax liens on real estate may
3 be sold for the taxes assessed thereon in the manner
4 prescribed in article three of this chapter.

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

1 A copy of each of the delinquent lists shall be posted
2 at the front door of the courthouse of the county at least
3 two weeks before the session of the county commission
4 at which they are to be presented for examination. At

5 the same time a copy of each list shall be published as
6 a Class I-O legal advertisement in compliance with the
7 provisions of article three, chapter fifty-nine of this code,
8 and the publication area for such publication shall be
9 the county. Only the aggregate amount of the taxes owed
10 by each person need be published. To cover the costs of
11 preparing, publishing and posting the delinquent lists,
12 a charge of ten dollars shall be added to the taxes and
13 interest already due on each item listed.

14 Any person whose taxes were delinquent on May first
15 may have his name removed from the delinquent lists
16 prior to the time the same is delivered to the newspapers
17 for publication by paying to the sheriff the full amount
18 of the taxes and costs owed by such person at the date
19 of such redemption. The sheriff shall collect a charge of
20 only three dollars if redemption is made before the list
21 is delivered for publication. Costs collected by the sheriff
22 hereunder which are not expended for publication shall
23 be paid into the general county fund.

ARTICLE 3. SALE OF TAX LIENS AND ESCHEATED LAND.

§11A-3-1. Declaration of legislative purpose and policy.

1 In view of the paramount necessity of providing
2 regular tax income for the state, county and municipal
3 governments, particularly for school purposes; and in
4 view of the further fact that delinquent land not only
5 constitutes a public liability, but also represents a
6 failure on the part of delinquent private owners to bear
7 a fair share of the costs of government; and in view of
8 the rights of owners of real property to adequate notice
9 and an opportunity for redemption before they are
10 divested of their interests in real property for failure to
11 pay taxes or have their property entered on the land
12 books; and in view of the fact that the circuit court
13 actions heretofore required prior to certain sales of
14 delinquent lands are unnecessary and a burden on the
15 judiciary of the state; and in view of the state's need to
16 utilize all of its resources, there being no land which the
17 Legislature considers to be waste; and in view of the
18 history of the titles to lands in this state from which the
19 Legislature finds that all lands of the state designated

20 prior to the enactment of this article as unappropriated
21 are merely land for which ownership cannot readily be
22 determined; and in view of the Legislature's determina-
23 tion that county governments are the more appropriate
24 governmental entity for the control and disposition of
25 delinquent and escheated lands located within their
26 boundaries; now therefore, the Legislature declares that
27 its purposes in the enactment of this article are as
28 follows: First, to provide for the speedy and expeditious
29 enforcement of the tax claims of the state and its
30 subdivisions; second, to provide for the transfer of
31 delinquent lands to those more responsible to, or better
32 able to bear, the duties of citizenship than were the
33 former owners; third, to secure adequate notice to
34 owners of delinquent property of the pending issuance
35 of a tax deed; fourth, to permit the county commissions
36 of the various counties of this state to sell, convey or
37 otherwise dispose of such lands without the necessity of
38 proceedings in the circuit courts; fifth, to reduce the
39 expense and burden on the state and its subdivisions of
40 tax sales so that such sales may be conducted in an
41 efficient manner while respecting the due process rights
42 of owners of real property; sixth, in furtherance of the
43 policy favoring the security of land titles, to establish an
44 efficient procedure that will quickly and finally dispose
45 of all claims of the delinquent former owner and secure
46 to the new owner the full benefit of his purchase;
47 seventh, to grant to the counties the authority to control
48 the disposition of delinquent and escheated lands located
49 within their boundaries.

§11A-3-2. Second publication of list of delinquent real estate; notice.

1 (a) On or before September tenth of each year, the
2 sheriff shall prepare a second list of delinquent lands,
3 which shall include all real estate in his county
4 remaining delinquent as of September first, together
5 with a notice of sale, in form or effect as follows:

6 Notice is hereby given that tax liens for the following
7 described tracts or lots of land or undivided interests
8 therein in the County of _____ which are
9 delinquent for the nonpayment of taxes for the year (or

10 years) 19 _____, will be offered for sale by the
 11 undersigned sheriff (or collector) at public auction at the
 12 front door of the courthouse of the county, between the
 13 hours of ten in the morning and four in the afternoon,
 14 on the _____ day of _____, 19
 15 _____.

16 Tax liens on each unredeemed tract or lot, or each
 17 unredeemed part thereof or undivided interest therein,
 18 will be sold at public auction to the highest bidder for
 19 cash in an amount which shall not be less than the taxes,
 20 interest and charges which shall be due thereon to the
 21 date of sale, as set forth in the following table:

22	Name of	Quantity	Local	Total amount
23	Person	of	descrip-	of taxes
24	charged	land	tion	interest and
25	with taxes			charges due to
26				date of sale

27 Any of the aforesaid tracts or lots, or part thereof or
 28 an undivided interest therein, may be redeemed by the
 29 payment to the undersigned sheriff (or collector) before
 30 sale, of the total amount of taxes, interest and charges
 31 due thereon up to the date of redemption.

32 Given under my hand this _____ day of
 33 _____, 19 _____.

34 _____
 35 Sheriff (or collector).

36 The sheriff shall publish the list and notice prior to
 37 the sale date fixed in the notice as a Class III-O legal
 38 advertisement in compliance with the provisions of
 39 article three, chapter fifty-nine of this code, and the
 40 publication area for such publication shall be the county.

41 (b) In addition to such publication, no less than thirty
 42 days prior to the sale the sheriff shall send a notice of
 43 such delinquency and the date of sale by certified mail
 44 to the last known address of each person whose taxes
 45 are delinquent and to each person having a lien on real
 46 property upon which the taxes are due, as disclosed by
 47 a statement filed with the sheriff pursuant to the

48 provisions of section three of this article: *Provided*, That
49 in a case where one owner owns more than one parcel
50 of real property upon which taxes are delinquent, the
51 sheriff may, at his option, mail separate notices to the
52 owner and each lienholder for each parcel, or may
53 prepare and mail to the owner and each lienholder a
54 single notice which pertains to all such delinquent
55 parcels. If he elects to mail only one notice, that notice
56 shall set forth a legally sufficient description of all
57 parcels of property on which taxes are delinquent. In no
58 event shall failure to receive the mailed notice by the
59 landowner or lienholder affect the validity of the title
60 of the property conveyed if it is conveyed pursuant to
61 section twenty-seven of this article.

62 (c)(1) To cover the cost of preparing and publishing
63 the delinquent list to the landowner, a charge of ten
64 dollars shall be added to the taxes, interest and charges
65 already due on each item and all such charges shall be
66 stated in the list as a part of the total amount due.

67 (2) To cover the cost of preparing and mailing notice
68 to the landowner and any lienholder, a charge of five
69 dollars per addressee shall be added to the taxes,
70 interest and charges already due on each item and all
71 such charges shall be stated in the list as a part of the
72 total amount due.

73 (d) Any person, whose taxes were delinquent on
74 September first, may have his name removed from the
75 delinquent list prior to the time the same is delivered
76 to the newspapers for publication by paying to the
77 sheriff the full amount of taxes and costs owed by such
78 person at the date of such redemption. In such case, the
79 sheriff shall include but three dollars of the costs
80 provided in this section in making such redemption.
81 Costs collected by the sheriff hereunder which are not
82 expended for publication and mailing shall be paid into
83 the general county fund.

§11A-3-3. Waiver of notice by person claiming lien.

1 Any person claiming a lien against real property shall
2 be deemed to have waived any right to notice provided
3 by sections two and twenty-six of this article unless he

4 shall have filed a statement declaring such interest with
5 the sheriff. Such statement shall be filed annually
6 during the month of July.

7 Such statement shall be on a form prescribed by the
8 tax commissioner and shall include the name of the
9 person charged with taxes for the real property; the tax
10 map and parcel number of the property; a description
11 of the interest claimed; and the address to which notice
12 is to be sent.

13 At least once a year prior to July first, the sheriff shall
14 publish a notice that any person claiming a lien against
15 taxable real property must file the annual statement
16 required by this section or such person will be deemed
17 to have waived any right to notice provided by the
18 preceding section. The notice shall be published as a
19 Class I legal advertisement in compliance with the
20 provisions of article three, chapter fifty-nine of this code,
21 and the publication area for such publication shall be
22 the county in which such land is located.

**§11A-3-4. Redemption after second publication and
before sale.**

1 Any of the real estate included in the list described
2 in section two of this article may be redeemed at any
3 time before sale as provided in section eighteen, article
4 two of this chapter.

§11A-3-5. Sale by sheriff.

1 The tax lien on each unredeemed tract or lot, or each
2 unredeemed part thereof or undivided interest therein
3 shall be sold by the sheriff at public auction to the
4 highest bidder for cash, between the hours of ten in the
5 morning and four in the afternoon on any Monday after
6 the fourteenth day of October and before the twenty-
7 third of November: *Provided*, That no tax lien for such
8 unredeemed tract or lot or undivided interest therein
9 shall be sold upon any bid or for any sum less than the
10 total amount of taxes, interest and charges then due:
11 *Provided, however*, That at any such sale, the tax lien
12 for each unredeemed tract or lot, or undivided interest
13 therein, shall be offered for sale and sold for the entirety

14 of such tract or lot or undivided interest therein as the
15 same is described and constituted as a unit or entity in
16 the list and notice prescribed in section two of this
17 article. If the sale shall not be completed on the day
18 designated in the notice for the holding of such sale, it
19 shall be continued from day to day between the same
20 hours until disposition shall have been made of all the
21 land.

§11A-3-6. Co-owner free to purchase at tax sale; purchase by sheriff and clerk of county commission prohibited.

1 (a) Any co-owner, except a coparcener, in the absence
2 of satisfactory proof of a fiduciary relationship, shall be
3 entitled to acquire by tax purchase for his own account
4 the tax lien on the interest of any, or all, of his co-owners
5 in any real estate, and to receive a tax deed conveying
6 such interest without being required to hold such tax
7 lien or interest or interests under any constructive trust.
8 There shall be a prima facie presumption against the
9 existence of any such constructive trust.

10 (b) No sheriff, clerk of the county commission, nor
11 deputy of either, shall directly or indirectly become the
12 purchaser, or be interested in the purchase, of any tax
13 lien on any real estate at the tax sale or receive any tax
14 deed conveying such real estate. Any such officer so
15 purchasing shall forfeit one thousand dollars for each
16 offense. The sale of any tax lien on any real estate, or
17 the conveyance of such real estate by tax deed, to one
18 of the officers named in this section shall be voidable,
19 at the instance of any person having the right to redeem,
20 until such real estate reaches the hands of a bona fide
21 purchaser.

§11A-3-7. Suspension from sale; amended delinquent lists; subsequent sale.

1 Whenever it shall appear to the sheriff that any real
2 estate included in the list has been previously conveyed
3 by deed pursuant to section twenty-seven of this article
4 for taxes, or that the tax lien thereon has been sold
5 previously and not redeemed, or that the tax lien
6 thereon ought not to be sold for the amount stated

7 therein, he shall suspend the sale thereof and report his
 8 reasons therefor to the county commission. If the
 9 commission finds that the tax lien on the real estate
 10 ought not to be sold, it shall so order; but if the
 11 commission finds that the tax lien on the real estate
 12 ought to be sold for the amount stated, or for a greater
 13 or less amount, it shall order the sheriff to include such
 14 real estate in his next September list, unless sooner
 15 redeemed.

16 In the event the list and notice of sale prescribed in
 17 section two of this article, shall not be published, posted
 18 and completed in the manner provided by said section
 19 two, so that it is impossible for that reason, or by reason
 20 of omission of any necessary procedural act, for the
 21 sheriff to make sale of the tax lien for the real estate
 22 embraced in said list pursuant to the provisions of this
 23 chapter, then and in that event the sheriff shall certify
 24 to the auditor, on or before the second day of December
 25 following the month in which such sale should have been
 26 held, an amended list or lists of such taxes which then
 27 remain delinquent. The sheriff shall include the real
 28 estate in the last-mentioned amended list or lists in his
 29 next September list, unless sooner redeemed.

§11A-3-8. Purchase by county.

1 If no person present bids the amount of taxes, interest
 2 and charges due on any real estate offered for sale, the
 3 sheriff shall purchase the tax lien on behalf of the
 4 county for the amount so due. No taxes levied against
 5 any lands for which a county has purchased a tax lien
 6 pursuant to the provisions of this section shall be
 7 payable until the same have been derived by the county
 8 from the sale of a tax lien on such lands or from the
 9 redemption of such lands.

§11A-3-9. Sheriff's list of sales, suspensions and redemptions; oath.

1 As soon as the sale provided for in section five of this
 2 article has been completed, the sheriff shall prepare a
 3 list of all tax liens on delinquent real estate purchased
 4 at the sale, or suspended from sale, or redeemed before
 5 sale. The heading of the list shall be in form or effect

6 as follows:

7 List of sales of tax liens on real estate in the county
8 of _____, returned delinquent for nonpay-
9 ment of taxes thereon for the year (or years) 19 _____,
10 and sold in the month (or months) of _____,
11 19 _____, or suspended from sale, or redeemed before
12 sale.

13 The sheriff shall, at the foot of such list, subscribe an
14 oath, which shall be subscribed before and certified by
15 some person duly authorized to administer oaths, in
16 form or effect as follows:

17 I, _____, sheriff (or deputy sheriff
18 or collector) of the county of _____, do swear
19 that the above list contains a true account of all the tax
20 liens on real estate within my county returned delin-
21 quent for nonpayment of taxes thereon for the year (or
22 years) 19 _____, which were sold by me or which were
23 suspended from sale or redeemed before sale, and that
24 I am not now, nor have I at any time been, directly or
25 indirectly interested in the purchase of any such tax
26 liens.

27 Except for the heading and the oath, the tax commis-
28 sioner shall prescribe the form of the list.

§11A-3-10. Sheriff to account for proceeds; disposition of surplus.

1 (a) The sheriff shall account for the proceeds of all
2 sales and redemptions included in such list in the same
3 way he accounts for other taxes collected by him, except
4 that if the purchase money paid for any property sold
5 is in excess of the amount of taxes, interest and charges
6 due thereon, the surplus shall be deposited in a special
7 county fund to be known and designated as the "sale of
8 tax lien surplus fund," and disposed of as follows:

9 (1) In any case where the property was redeemed,
10 such surplus shall be distributed to the person or
11 persons who redeemed such property, or the heirs,
12 devisees, legatees, executors, administrators, successors
13 or assigns thereof, if a proper claim therefor is filed
14 with the sheriff within two years from and after the date

15 of the sale; or

16 (2) If a claim as specified in subdivision (1) hereof is
17 not timely filed, or if there was no redemption, such
18 surplus shall be distributed to the person or persons who
19 owned the property at the time of the sale, or the heirs,
20 devisees, legatees, executors, administrators, successors
21 or assigns thereof, if a proper claim thereof is filed with
22 the sheriff within three years from and after the date
23 of the sale; or

24 (3) If there be no proper claim filed under either
25 subdivision (1) or (2) hereof within the time limits
26 aforesaid, all claims to such surplus shall be barred and
27 such surplus shall be distributed by the sheriff in the
28 manner provided by law for the distribution of property
29 taxes collected by him.

30 (b) All real estate included in the first delinquent list
31 sent to the auditor, and not accounted for in the list of
32 sales, suspensions and redemptions, shall be deemed to
33 have been redeemed before sale, and the taxes, interest
34 and charges due thereon shall be accounted for by the
35 sheriff as if they had been received by him before the
36 sale.

§11A-3-11. Return of list of sales, suspensions and redemptions.

1 (a) Within one month after completion of the sale, the
2 sheriff shall deliver the original list of sales, suspensions
3 and redemptions, with a copy thereof, to the clerk of the
4 county commission. The clerk shall bind the original of
5 such list in a permanent book to be kept for the purpose
6 in his office, and shall note each sale and suspension, and
7 each redemption not previously noted, on his record of
8 delinquent lands. The clerk, within ten days after
9 delivery of the list to him, shall transmit the copy to the
10 auditor, who shall note each sale, suspension and
11 redemption on the record of delinquent lands kept in his
12 office.

13 (b) Any sheriff who fails to prepare and return the list
14 of sales, suspensions and redemptions within the time
15 required by this section shall forfeit not less than fifty

16 nor more than five hundred dollars, for the benefit of
17 the general school fund, to be recovered by the auditor
18 or by any taxpayer of the county on motion in a court
19 of competent jurisdiction. Upon the petition of any
20 person interested, the sheriff may be compelled by
21 mandamus to make out and return such list, and the
22 proceedings thereon shall be at his cost.

§11A-3-12. Amendment of such list.

1 If the sheriff shall make any error or omission in the
2 list of sales, suspensions and redemptions returned to
3 the clerk of the county commission, he or any person
4 interested may, within six months after the sale, apply
5 by petition to the county commission for an order
6 permitting or requiring amendment of the list. Any
7 person who might be prejudiced by the proposed
8 amendment must, if found within the county, be given
9 at least ten days' notice of such application. Upon proof
10 of the error or mistake the court shall make an order
11 permitting or requiring the sheriff to file an amended
12 list with the clerk of the commission. The sheriff shall
13 thereupon prepare and deliver to the clerk of the
14 commission the amended list and a copy thereof, with
15 a copy of the order of the commission permitting or
16 requiring it to be filed attached to the list and to the
17 copy. The clerk shall substitute the original of the
18 amended list for the list already in his office, and make
19 the necessary corrections on his record of delinquent
20 lands. The clerk shall transmit the copy of the amended
21 list to the auditor who shall note the corrections on his
22 record of delinquent lands.

§11A-3-13. Publication by sheriff of sales list.

1 Within one month after completion of the sale, the
2 sheriff shall prepare and publish a list of all the sales
3 made by him, in form or effect as follows, which list
4 shall be published as a Class II-O legal advertisement
5 in compliance with the provisions of article three,
6 chapter fifty-nine of this code, and the publication area
7 for such publication shall be the county.

8 List of tax liens on real estate sold in the county of
9 _____, in the month (or months) of

10 _____, 19 _____, for nonpayment of taxes
 11 thereon for the year (or years) 19 _____, and purchased
 12 by individuals or by the County of _____,
 13 West Virginia:

14	Name of	Local	Quality			
15	person	descrip-	of land	Whole		
16	charged	tion	Quantity	for which	Name	amount
17	with	of	of land	tax lien	of	paid by
18	taxes	lands	charged	is sold	purchaser	purchaser

19 The owner of any real estate listed above, or any other
 20 person entitled to pay the taxes thereon, may, however,
 21 redeem such real estate as provided by law.

22 Given under my hand this _____ day of
 23 _____, 19_____.

24 To cover the costs of preparing and publishing such
 25 list, a charge of ten dollars shall be added to the taxes,
 26 interest and charges already due on each item listed.

§11A-3-14. Title to tax lien acquired by county.

1 Upon such purchase on behalf of the county, title to
 2 the tax lien on the real estate sold shall without any
 3 certificate of sale be vested in the county, subject,
 4 however, to the right of redemption provided by this
 5 chapter.

§11A-3-15. Purchase by individual at tax sale; certificate of sale.

1 (a) If any person, being the highest bidder present at
 2 the sale provided for in section five of this article, bids
 3 and pays at least the amount of taxes, interest and
 4 charges for which any real estate is offered for sale, the
 5 sheriff shall issue to him a certificate of sale for the
 6 purchase money. The heading of the certificate shall be:

7 Memorandum of tax lien on real estate sold in the
 8 county of _____ on this
 9 _____ day of _____,
 10 19 _____, for the nonpayment of taxes charged thereon
 11 for the year (or years) 19 _____.

12 Except for the heading, the tax commissioner shall
 13 prescribe the form of the receipt.

14 (b) The certificate of sale shall describe the property
15 on which the tax lien was sold, the total amount of all
16 taxes, interest, penalties and costs paid for each lot or
17 tract, and the rate of interest to which the purchaser
18 shall be entitled upon redemption. The certificate shall
19 also set forth columns for subsequent taxes and costs.
20 For each certificate so delivered, the purchaser shall
21 pay a fee of ten dollars, and such amount shall be
22 included in the costs described therein.

§11A-3-16. Certificate of sale assignable.

1 The certificate of sale shall be assignable by endor-
2 sement, and an assignment thereof, when entered upon
3 the delinquent lands book of the clerk of the county
4 commission and in the sheriff's records, shall vest in the
5 assignee or his legal representative all the right and title
6 of the original purchaser. Both the clerk and the sheriff
7 shall be entitled to a fee of two dollars for the entry
8 thereof.

§11A-3-17. Subsequent tax payments by purchaser.

1 Any person desiring to pay any subsequent taxes on
2 lands for which he holds the certificates of sale shall
3 produce such certificates to the sheriff, who shall
4 endorse the amount of such subsequent taxes and the
5 date of payment thereof in his records upon the payment
6 to the sheriff of a fee therefor in the amount of two
7 dollars. He shall also present such certificate to the clerk
8 of the county commission, who shall enter the amount
9 of such tax in his record of delinquent lands upon the
10 payment to the clerk of a fee therefor in the amount of
11 two dollars.

§11A-3-18. Sale of subsequent tax liens.

1 Whenever any tax lien for any real estate has been
2 sold at a tax sale to an individual purchaser, and the
3 tax on such real estate for the year of the sale or for
4 any subsequent year have become delinquent, the sheriff
5 shall include the real estate in the delinquent lists of the
6 proper year and shall sell any subsequent tax liens
7 therefor on the whole or a part thereof for taxes as if
8 the former sale had not occurred. The purchaser at the

9 first sale may, however, prevent the second sale by
 10 paying the amount due, or he may redeem from the
 11 second sale. If the purchaser bought only a part of the
 12 land at the first sale, he may prevent a second sale
 13 thereof by paying the proportionate part of the taxes
 14 assessed against the whole which are chargeable to the
 15 part purchased.

**§11A-3-19. Transfer of certificate of sale by sheriff;
 counties entitled to tax deeds.**

1 (a) Whenever any tax lien on any lot or tract of land
 2 or interest therein is purchased by or for the county at
 3 any tax sale, and a certificate of sale is made to such
 4 county therefor, the sheriff of such county may sell,
 5 assign, and deliver any such certificate to any person
 6 who desires to purchase the same upon payment to the
 7 sheriff of the amount for which said tax lien was bid
 8 in by the county with interest and costs accrued thereon
 9 from the date of sale, together with a fee for making
 10 such assignment in the amount of ten dollars, or, for
 11 such sum as the county commission may decide and
 12 authorize by order duly entered in the recorded
 13 proceedings of such commission.

14 (b) Whenever any tax lien on any lot or tract of land
 15 or interest therein thereon is purchased by or for a
 16 county, such county shall be entitled to apply for and
 17 receive a tax deed in like manner as is provided for
 18 individual purchasers at tax sales.

§11A-3-20. Transfer of certificate of sale by counties.

1 Any county in this state having in its possession or
 2 under its control a certificate of sale resulting from the
 3 sale of a tax lien on land for the nonpayment of taxes
 4 may assign, sell or transfer such certificate in such
 5 manner, at such times, and on such terms as may be
 6 determined by order of the county commission. Thereaf-
 7 ter, the county shall execute and deliver such instru-
 8 ments as may be necessary to fully convey all of the
 9 right, title and interest of the county in or to such
 10 certificates.

§11A-3-20a. Required public sale of tax liens by counties.

1 No sale, assignment or transfer of a certificate of sale
 2 as permitted by sections nineteen and twenty of this
 3 article shall occur unless the sale is advertised and
 4 conducted in compliance with the provisions of this
 5 subsection. A notice of such sale shall be posted in a
 6 public place in the county courthouse at least thirty days
 7 before the date of sale, which notice shall be published
 8 during such thirty day period as a Class II-O legal
 9 advertisement in compliance with the provisions of
 10 article three, chapter fifty-nine of this code, and the
 11 publication area for such publication shall be the county.

12 Such notice shall reserve the right upon part of the
 13 county commission to reject any or all bids which are
 14 less than the amount for which said tax lien was bid in
 15 by the county with interest and costs accrued thereon
 16 from the date of sale, together with a fee for advertising
 17 the sale described in this section in the amount of ten
 18 dollars. Said notice shall be substantially in the
 19 following form:

20

"NOTICE

21 Public notice is hereby given that the certificate of
 22 sale for the tax lien on the following real property
 23 acquired by the County of _____, West
 24 Virginia, to wit:

25

(description of property)

26 will, according to law, be offered at public sale at the
 27 county courthouse, _____, West Virginia, on
 28 the _____ day of _____, 19 _____,
 29 at the hour of _____ to the highest and best
 30 bidder. The county commission of said county reserves
 31 the right to reject any or all bids which are less than
 32 the amount for which said tax lien was bid in by the
 33 county at the prior sheriff's tax sale on (date)
 34 _____ with interest and costs accrued thereon
 35 from the date of said sheriff's sale

36

_____ County Clerk."

37
 §11A-3-21. Limitations on tax certificates.

1 (a) No lien upon real property conveyed by a tax
2 certificate of sale issued by a sheriff on account of any
3 delinquent property taxes shall remain a lien thereon
4 for a period longer than fifteen years after the original
5 issuance thereof, except as provided in subsection (c) of
6 this section. This section shall not apply to any certifi-
7 cate of sale issued to and held by the county; except
8 that, in the event of an assignment of such tax certificate
9 of sale so issued to and held by such county, the lien of
10 such tax certificate or certificate of purchase shall cease
11 fifteen years after the date of its issuance subject only
12 to the provisions of subsection (c) of this section.

13 (b) No tax deed shall issue on any tax sale evidenced
14 by tax certificate sale where such tax certificate or
15 certificate of purchase has ceased to be a lien pursuant
16 to the provisions of this section and application for such
17 tax deed is not pending at the time of the expiration of
18 the limitation period provided for in this section.

19 (c) In the event of an assignment of a tax certificate
20 of sale held by a county where such certificate is fifteen
21 years old at the time of assignment or will become
22 fifteen years old within one year from the date of such
23 assignment, the assignee thereof shall be entitled to a
24 tax deed in the manner provided by law if such assignee
25 or other legal holder of such certificate institutes
26 proceedings to procure a tax deed by making a demand
27 upon the clerk for same, as provided by law, within one
28 year from the date of such assignment by the county.

29 (d) Whenever a lien conveyed by a tax certificate of
30 sale has expired by reason of the provisions of this
31 section, the sheriff shall immediately issue a certificate
32 of cancellation describing the real estate included in the
33 certificate of purchase or tax certificate and giving the
34 date of cancellation; and he shall also make proper
35 entries in his records. He shall also present every such
36 certificate of cancellation to the county clerk who shall
37 enter the same in his records and file the same, and such
38 certificate and the record thereof shall be prima facie
39 evidence of the cancellation of the certificate of sale and
40 of the release of the lien of such certificate on the lands
41 therein described. Failure to record such certificate of

42 cancellation shall not extend the lien conveyed by the
43 certificate of sale. The sheriff and county clerk shall not
44 be entitled to any fees for the issuing of such certificate
45 of cancellation nor for the entries in their books made
46 under the provisions of this subsection.

§11A-3-22. Further public auctions of tax liens.

1 If any tax lien on a lot or tract of real estate was
2 purchased at a tax sale described in section five of this
3 article which has not been redeemed and which has not
4 been sold or assigned by the county for three consecutive
5 years from said sale, then such tax lien and any
6 subsequent tax liens which may attach to said property
7 for delinquency may be sold or assigned without any
8 additional listing, advertising or notice otherwise
9 required by the provisions of this article requiring the
10 same prior to the public auction of such tax liens
11 thereon.

§11A-3-23. What purchaser must do before he can secure deed.

1 (a) At any time after October thirty-first of the year
2 following the sale, and on or before December thirty-
3 first of the same year, the purchaser, his heirs or
4 assigns, in order to secure a deed for the real estate
5 purchased, shall: (1) examine the title in order to
6 prepare a list of those to be served with notice to redeem
7 and request the clerk to prepare and serve the notice
8 as provided in sections twenty-five and twenty-six of this
9 article; (2) deposit, or offer to deposit, with the clerk a
10 sum sufficient to cover the costs of preparing and
11 serving the notice; and (3) present the purchaser's
12 certificate of sale, or order of the county commission
13 where the certificate has been lost or wrongfully
14 withheld from the owner, to the clerk of the county
15 commission. For failure to meet these requirements, the
16 purchaser shall lose all the benefits of his purchase.

17 (b) If the person requesting preparation and service of
18 the notice is an assignee of the purchaser, he shall, at
19 the time of the request, file with the clerk a written
20 assignment to him of the purchaser's rights, executed,
21 acknowledged and certified in the manner required to

22 make a valid deed.

23 (c) Whenever any certificate given by the sheriff for
 24 a tax lien on any land, or interest therein, sold for
 25 delinquent taxes is lost or wrongfully withheld from the
 26 rightful owner thereof and such land or interest has not
 27 been redeemed, the county commission may receive
 28 evidence of such loss or wrongful detention and, upon
 29 satisfactory proof of such fact, may cause a certificate
 30 of such proof and finding, properly attested by the
 31 county clerk under the seal of the county, to be delivered
 32 to such rightful claimant, and a record thereof shall be
 33 duly made by the county clerk in the recorded proceed-
 34 ings of the commission.

**§11A-3-24. Refund to purchaser of payment made at
 sheriff's sale where property is subject of
 an erroneous assessment or is otherwise
 nonexistent.**

1 If, after payment of the amount bid at a sheriff's sale
 2 and upon the examination of title, as required by section
 3 twenty-three of this article, the purchaser discovers that
 4 the property purchased at such sale is the subject of an
 5 erroneous assessment or is otherwise nonexistent, such
 6 purchaser shall submit the certificate of an attorney at
 7 law that the property is the subject of an erroneous
 8 assessment or is otherwise nonexistent, whereupon the
 9 sheriff shall cause the moneys so paid to be refunded.
 10 Upon refund, the sheriff shall inform the assessor of the
 11 erroneous assessment for the purpose of having the
 12 assessor correct said error.

§11A-3-25. Notice to redeem.

1 Whenever the provisions of section twenty-three of
 2 this article have been complied with, the clerk of the
 3 county commission shall thereupon prepare a notice in
 4 form or effect as follows:

5 To _____

6 You will take notice that _____, the
 7 purchaser (or _____, the assignee, heir or
 8 devisee of _____, the purchaser) of the tax
 9 lien(s) on the following real estate, _____,

10 (here describe the real estate for which the tax lien(s)
 11 thereon were sold) located in _____, (here
 12 name the city, town or village in which the real estate
 13 is situated or, if not within a city, town or village, give
 14 the district and a general description) which was
 15 returned delinquent in the name of _____,
 16 and for which the tax lien(s) thereon was sold by the
 17 sheriff of _____ County at the sale for
 18 delinquent taxes made on the _____ day of
 19 _____, 19 _____, has requested that you be
 20 notified that a deed for such real estate will be made
 21 to him on or after the first day of April, 19 _____, as
 22 provided by law, unless before that day you redeem such
 23 real estate. The amount you will have to pay to redeem
 24 on the last day, March thirty-first, will be as follows:

25 Amount paid sheriff at sale, with interest
 26 to March 31st \$ _____

27 Amount of taxes paid on the property,
 28 since the sale, with interest
 29 to March 31st \$ _____

30 Amount paid for title examination \$ _____

31 Amount paid for preparation of list of
 32 those to be served, and for preparation
 33 and service of the notice..... \$ _____

34 Amount paid for other statutory costs
 35 (describe) \$ _____

36 Total \$ _____

37 You may redeem at any time before March thirty-first
 38 by paying the above total less any unearned interest.

39 Given under my hand this _____ day of
 40 _____, 19 _____.

41 _____
 42 Clerk of the County Commission
 43 of _____ County,
 44 State of West Virginia

45 The clerk for his service in preparing the notice shall
 46 receive a fee of ten dollars for the original and two

47 dollars for each copy required. Any costs which must be
48 expended in addition thereto for publication, or service
49 of such notice in the manner provided for serving
50 process commencing a civil action, or for service of
51 process by certified mail, shall be charged by the clerk.
52 All costs provided by this section shall be included as
53 redemption costs and included in the notice described
54 herein.

§11A-3-26. Service of notice.

1 As soon as the clerk has prepared the notice provided
2 for in section twenty-five of this article, he shall cause
3 it to be served upon all persons named on the list
4 generated by the purchaser pursuant to the provisions
5 of section twenty-three of this article.

6 The notice shall be served upon all such persons
7 residing or found in the state in the manner provided
8 for serving process commencing a civil action, or by
9 certified mail, return receipt requested. The notice shall
10 be served on or before the tenth day following the
11 request for such notice.

12 If any person entitled to notice is a nonresident of this
13 state, whose address is known to the purchaser, he shall
14 be served at such address by certified mail, return
15 receipt requested.

16 If the address of any person entitled to notice, whether
17 a resident or nonresident of this state, is unknown to the
18 purchaser and cannot be discovered by due diligence on
19 the part of the purchaser, the notice shall be served by
20 publication as a Class III-O legal advertisement in
21 compliance with the provisions of article three, chapter
22 fifty-nine of this Code, and the publication area for such
23 publication shall be the county in which such real estate
24 is located. If service by publication is necessary,
25 publication shall be commenced when personal service
26 is required as set forth above, and a copy of the notice
27 shall at the same time be sent by certified mail, return
28 receipt requested, to the last known address of the
29 person to be served. The return of service of such notice,
30 and the affidavit of publication, if any, shall be in the
31 manner provided for process generally and shall be filed

32 and preserved by the clerk in his office, together with
33 any return receipts for notices sent by certified mail.

§11A-3-27. Deed to purchaser; record.

1 If the real estate described in the notice is not
2 redeemed within the time specified therein, the person
3 entitled thereto shall make and deliver to the clerk of
4 the county commission at any time thereafter a deed for
5 such real estate in form or effect as follows:

6 This deed made this _____ day of
7 _____, 19 _____, by and between
8 _____, clerk of the county commission of
9 _____ County, West Virginia, (or by and
10 between _____, a commissioner appointed
11 by the Circuit Court of _____ County, West
12 Virginia) grantor, and _____, purchaser, (or
13 _____, heir, devisee or assignee of
14 _____, purchaser,) grantee, witnesseth, that

15 Whereas, In pursuance of the statutes in such case
16 made and provided, _____, Sheriff of
17 _____ County, (or _____, deputy
18 for _____, Sheriff of _____
19 County,) (or _____, collector of
20 _____ County,) did, in the month of
21 _____, in the year 19 _____, sell the
22 tax lien(s) on real estate, hereinafter mentioned and
23 described, for the taxes delinquent thereon for the year
24 (or years) 19 _____, and _____, (here insert
25 name of purchaser) for the sum of \$_____,
26 that being the amount of purchase money paid to the
27 sheriff, did become the purchaser of such real estate (or
28 of _____ acres, part of the tract or land, or
29 of an undivided _____ interest in such real
30 estate) which was returned delinquent in the name of
31 _____ and

32 Whereas, The clerk of the county commission has
33 caused the notice to redeem to be served on all persons
34 required by law to be served therewith; and

35 Whereas, The tax lien(s) on the real estate so pur-
36 chased has not been redeemed in the manner provided

37 by law and the time for redemption set in such notice
38 has expired;

39 Now, therefore, the grantor, for and in consideration
40 of the premises and in pursuance of the statute, doth
41 grant unto _____, grantee, his heirs and
42 assigns forever, the real estate on which the tax lien(s)
43 so purchased existed, situate in the county of
44 _____, bounded and described as follows:
45 _____.

46 Witness the following signature: _____.

47 Clerk of the County Commission of _____
48 County.

49 Except when ordered to do so, as provided in section
50 twenty-eight of this article or section eight, article four
51 of this chapter, no clerk of the county commission shall
52 execute and deliver such a deed more than six months
53 after the person entitled to the deed delivers the same
54 and requests the execution thereof. Upon the clerk's
55 determination that the deed presented substantially
56 complies with the requirements of this section, the clerk
57 shall execute the deed and acknowledge the same,
58 record the deed in the clerk's office, and deliver the
59 original thereof to the purchaser.

60 For the execution of the deed and for all the recording
61 required by this section, a fee of ten dollars shall be
62 charged, to be paid by the grantee upon delivery of the
63 deed. The deed, when duly acknowledged or proven,
64 shall be recorded by the clerk of the county commission
65 in the deed book in his office, together with the report
66 or plat and description, the assignment from the
67 purchaser, if one was made, the notice to redeem, the
68 return of service of such notice, the affidavit of
69 publication, if the notice was served by publication, and
70 any return receipts for notices sent by registered mail.

§11A-3-28. Compelling service of notice or execution of deed.

1 If the clerk of the county commission fails or refuses
2 to prepare and serve the notice to redeem as required
3 in sections twenty-five and twenty-six of this article, the

4 person requesting the notice may, at any time within
5 two weeks after such failure or refusal, apply by petition
6 to the circuit court of the county for an order compelling
7 the clerk to prepare and serve the notice or appointing
8 a commissioner to do so. If the person requesting the
9 notice fails to make such application within the time
10 allowed, he shall lose his right to the notice, but his
11 rights against the clerk under the provisions of section
12 thirty-eight of this article shall not be affected. Notice
13 given pursuant to an order of the court or judge shall
14 be as valid for all purposes as if given within the time
15 required by section twenty-six of this article.

16 If the clerk fails or refuses to execute the deed as
17 required in section twenty-seven of this article, the
18 person requesting the deed may, at any time after such
19 failure or refusal, but not more than six months after
20 his right to the deed accrued, apply by petition to the
21 circuit court of the county for an order compelling the
22 clerk to execute the deed or appointing a commissioner
23 to do so. If the person requesting the deed fails to make
24 such application within the time allowed, he shall lose
25 his right to the deed, but his rights against the clerk
26 under the provisions of section thirty-eight of this article
27 shall not be affected. Any deed executed pursuant to an
28 order of the court or judge shall have the same force and
29 effect as if executed and delivered by the clerk within
30 the time specified in the preceding section.

31 Ten days' written notice of every such application
32 must be given to the clerk. If, upon the hearing of such
33 application, the court or judge is of the opinion that the
34 applicant is not entitled to the notice or deed requested,
35 the petition shall be dismissed at his costs; but if the
36 court or judge is of the opinion that he is entitled to such
37 notice or deed, then, upon his deposit with the clerk of
38 the circuit court of a sum sufficient to cover the costs
39 of preparing and serving the notice, unless such a
40 deposit has already been made with the clerk of the
41 county commission, an order shall be made by the court
42 or judge directing the clerk to prepare and serve the
43 notice or execute the deed, or appointing a commissioner
44 for the purpose, as the court or judge shall determine.

45 If it appear to the court or judge that the failure or
46 refusal of the clerk was without reasonable cause,
47 judgment shall be given against him for the costs of the
48 proceedings; otherwise the costs shall be paid by the
49 applicant.

50 Any commissioner appointed under the provisions of
51 this section shall be subject to the same liabilities as are
52 provided for the clerk. For the preparation of the notice
53 to redeem, he shall be entitled to the same fee as is
54 provided for the clerk. For the execution of the deed,
55 he shall also be entitled to a fee of ten dollars, to be paid
56 by the grantee upon delivery of the deed.

§11A-3-29. One deed for separate purchases.

1 Whenever one purchaser at the tax sale has purchased
2 tax liens on two or more pieces of real estate, or
3 undivided interests therein, charged to the same person,
4 or persons, with taxes for the same year, or years, he,
5 his heirs or assigns, may request the clerk of the county
6 commission to execute a separate deed for each piece of
7 real estate, or undivided interest therein, or separate
8 deeds for some and one deed for the remainder, or one
9 deed for all, as he or they may prefer. Every deed for
10 two or more pieces of real estate, or undivided interests
11 therein, shall describe each piece of real estate and each
12 undivided interest separately.

§11A-3-30. Title acquired by individual purchaser; action to quiet title.

1 (a) Whenever the purchaser of any tax lien on any real
2 estate sold at a tax sale, his heirs or assigns, shall have
3 obtained a deed for such real estate from the clerk of
4 the county commission or from a commissioner ap-
5 pointed to make the deed, he or they shall thereby
6 acquire all such right, title and interest, in and to the
7 real estate, as was, at the time of the execution and
8 delivery of the deed, vested in or held by any person who
9 was entitled to redeem, unless such person is one who,
10 being required by law to have his interest separately
11 assessed and taxed, has done so and has paid all the
12 taxes due thereon, or unless the rights of such person
13 are expressly saved by the provisions of section six of

14 this article or sections two, three, four or nine, article
15 four of this chapter. The tax deed shall be conclusive
16 evidence of the acquisition of such title. The title so
17 acquired shall relate back to July first of the year in
18 which the taxes, for nonpayment of which the tax lien
19 on the real estate was sold, were assessed.

20 (b) Any individual purchaser to whom a tax deed has
21 been issued may institute and prosecute actions to quiet
22 title in any such real estate conveyed thereby. Such
23 action may be maintained for all or any one or more of
24 the lots or tracts conveyed.

§11A-3-31. Effect of irregularity on title acquired by purchaser.

1 No irregularity, error or mistake in respect to any
2 step in the procedure leading up to and including
3 delivery of the tax deed shall invalidate the title
4 acquired by the purchaser unless such irregularity,
5 error or mistake is, by the provisions of section six of
6 this article or section two, three or four, article four of
7 this chapter, expressly made ground for instituting a
8 suit to set aside the sale or the deed.

9 This and the preceding section are enacted in furth-
10 erance of the purpose and policy set forth in section one
11 of this article.

§11A-3-32. Disposition of certificates held by counties.

1 (a) In all cases where a tax lien on real estate has been
2 purchased by or on behalf of the county at tax sales and
3 the county has held the certificate of sale for three years
4 or more, the county commission may apply for and
5 receive a tax deed in like manner as is provided by law
6 in the case of delinquent tax sale certificates held by
7 individuals. The county commission, whenever the
8 county becomes entitled to a tax deed, may cause its
9 clerk to issue, serve, and publish notices, pursuant to
10 law, of application for such tax deed in like manner as
11 in the case of individual certificate holders.

12 (b) In cases where the county has held the tax
13 certificate for five years or more and such real estate
14 is not located within the limits of any incorporated town

15 or city within the said county, the clerk may, at the
16 request of the county commission, include in one tax
17 deed therefor any or all separate parcels of real estate
18 for which it holds tax sale certificates for sales in any
19 one year.

20 (c) Upon making application in the case of tax
21 certificates held by the counties for five years or more,
22 the clerk shall not be required to give the notice that
23 a request or demand for tax deed has been made upon
24 him provided for in section twenty-five of this article.
25 The clerk, in lieu of such notice, at least sixty days
26 before the day said tax deed issues, shall give notice by
27 registered or certified mail, addressed to the last known
28 residence of the person in whose name the real estate
29 is assessed for the years during which said taxes have
30 not been paid, that a tax deed has been applied for on
31 the particular described property and that said tax deed
32 will issue on a day certain. The clerk shall also post in
33 a public place in the county courthouse, at least sixty
34 days before said deed issues, a notice stating that a deed
35 will be issued to the county on the real estate described
36 in said notice. Said notice shall contain the name of the
37 person to whom the property is assessed together with
38 the date said tax deed will issue.

39 (d) In all cases, the owner of the property shall have
40 the right of redemption of the property as provided by
41 law.

42 (e) Any tax deed, when issued to the county, shall be
43 duly recorded, but no fee shall be required to be paid
44 therefor. Thereafter, the county commissioner shall list
45 such property for sale and post such list in the county
46 courthouse and, out of the county general fund, may
47 make such essential repairs thereon and pay such
48 premiums for fire insurance as are necessary for the
49 protection and preservation of any improvements on
50 such property. The county commission, after a county
51 has acquired such tax deed, in its discretion, may
52 institute and prosecute suits to quiet the title in any such
53 real estate so acquired under such tax deed.

54 (f)(1) In all cases where a tax lien on real property has

55 been purchased by or on behalf of the county at a tax
56 sale and the county has held the certificate of sale for
57 thirty years or more without obtaining a tax deed as
58 provided in this section, then such certificate may be
59 declared void and of no effect.

60 (2) It is the duty of the clerk of the county commission
61 at least once each year to prepare and present, at any
62 regular or special meeting of the county commission, a
63 list of all tax liens on all real property purchased by or
64 on behalf of the county and all certificates of sale
65 relating thereto, which certificates have been held by
66 the county for thirty years or more without obtaining
67 a deed or being otherwise disposed of under this article.

68 (3) Upon being presented with such list, the county
69 commission shall determine that the tax liens were
70 purchased by or on behalf of the county, that such
71 certificates of sale relating thereto have been held by the
72 county for thirty years or more, and that no tax deed
73 has been obtained or applied for as provided in this
74 section. Upon making such determination, the county
75 commission may declare that such certificates are void,
76 and an order to that effect shall be duly entered in the
77 recorded proceedings of the board, which order shall
78 direct the clerk and the sheriff to cancel such certifi-
79 cates of sale.

80 (4) Upon receipt of an order of the county commission
81 declaring that any certificates of sale are void, the clerk
82 and the sheriff shall record said order in his records and
83 shall cancel all such certificates specified in said order.

84 (5) Any civil action concerning a determination and
85 declaration by a county commission made pursuant to
86 this subsection (f) shall be commenced within one year
87 after the date of the commission's order, or said action
88 shall be forever barred.

§11A-3-33. Appraisal - County may rent or sell.

1 (a) Whenever such real estate is conveyed by the clerk
2 to the county by tax deed pursuant to the provisions of
3 this article, the county commission shall have the power
4 to rent, lease, sell, or otherwise convey such property so

5 acquired as provided in this section.

6 (b) Whenever such real estate is leased by the county
7 commission of such county, it shall be leased for the best
8 cash rental obtained, considering the condition and
9 location of such real estate, in the discretion of the
10 county commission; but no lease shall be for a period
11 exceeding five years.

12 (c)(1) Any such real estate so conveyed to the county
13 may be sold at public sale by the county commission:
14 *Provided*, That no such real estate may be sold unless
15 the sale is advertised and conducted in compliance with
16 the provisions of this subsection. Prior to offering such
17 property for sale, the county commission shall obtain
18 from the assessor a certificate as to the current actual
19 value and valuation for assessment of the same, which
20 shall be provided by the assessor. A notice of such sale
21 shall be posted in a public place in the county courthouse
22 at least thirty days before the date of sale, which notice
23 shall be published during such thirty day period as a
24 Class II-O legal advertisement in compliance with the
25 provisions of article three, chapter fifty-nine of this code,
26 and the publication area for such publication shall be
27 the county.

28 Such notice shall reserve the right upon the part of
29 the county commission to reject any or all bids which
30 are less than the value determined by the assessor. Said
31 notice shall be substantially in the following form:

32 "NOTICE

33 Public notice is hereby given that the following real
34 property acquired by the County of _____,
35 West Virginia, by tax deed, to wit:

36 (description of property)

37 will, according to law, be offered at public sale at the
38 county courthouse, _____, West Virginia, on
39 the _____ day of _____, 19 _____,
40 at the hour of _____ to the highest and best
41 bidder. The county commission of said county reserves
42 the right to reject any or all bids which are less than
43 the current actual value fixed by the county assessor.

44
45

County Clerk.”

46 (2) Such real estate may be sold at public sale when
47 and if the county commission receives a bid for any lots
48 or parcels which in the discretion of the county
49 commission is a sufficient purchase price. Such real
50 estate may be sold in such lots or parcels and upon such
51 terms of payment as the county commission deems
52 acceptable, but no deed shall be issued until the
53 purchaser has made payment in full. Upon written
54 application of any person, the county commission shall,
55 except as otherwise provided herein, offer for sale the
56 property requested by such person to be sold. No parcel
57 shall be divided for the purpose of sale unless the county
58 commission specifically permits such division. The
59 county commission, in its discretion, may decline and
60 refuse to offer for sale any lots or parcels as it may
61 determine to be useful or necessary for present or future
62 public projects. The county commission may, prior to the
63 sale of any lot or parcel, reserve or grant streets, alleys,
64 or roads or utilities or other easements, public or
65 private, under such terms and conditions as it may deem
66 advisable and may rent or lease any lot or parcel
67 retained for present or future public projects to any
68 person, political subdivision, or municipality.

69 (d) A private, nonprofit, charitable corporation,
70 incorporated in this state, which has been certified as
71 a nonprofit corporation pursuant to the provisions of
72 §501(c)(3) of the federal Internal Revenue Code, as
73 amended, which has as its principal purpose the
74 construction of housing or other public facilities, and
75 which notifies the county commission of an intention to
76 bid and subsequently submits a bid that is not more
77 than five percent lower than the highest bid submitted
78 by any person or organization which is not a private,
79 nonprofit, charitable corporation, incorporated in this
80 state, which has been certified as a nonprofit corpora-
81 tion pursuant to the provisions of §501(c)(3) of the
82 federal Internal Revenue Code, as amended, and which
83 has as its principal purpose the construction of housing

84 or other public facilities, shall be sold the property
85 offered for sale by the county commission pursuant to
86 the provisions of this section at the public auction as
87 opposed to the highest bidder.

88 The nonprofit corporation referred to in this section
89 does not include a business organized for profit, a labor
90 union, a partisan political organization or an organiza-
91 tion engaged in religious activities and it does not
92 include any other group which does not have as its
93 principal purpose the construction of housing or public
94 facilities.

95 (e) Any such deed shall be executed by no less than
96 a majority of the county commission, but such deed shall
97 be issued without covenants of warranty.

98 (f) The proceeds of the sale, after payment of all
99 expenses thereof, shall be deposited in the general fund
100 of the county.

**§11A-3-34. Sheriff to keep proceeds in separate accounts;
disposition.**

1 The sheriff shall keep in a separate fund the proceeds
2 of all redemptions and sales paid to him under the
3 provisions of this chapter. Out of the total proceeds of
4 each suit he shall in the order of priority stated below
5 credit the following amounts, for payment as hereinafter
6 provided: (1) To the general county fund, such part as
7 represents costs paid out of such fund for publishing the
8 sheriff's delinquent and sales list and all other costs
9 incurred by the sheriff pursuant to the provisions of this
10 article; (2) surplus proceeds from the sale of tax liens
11 on delinquent lands shall be held by the sheriff for the
12 periods provided for in section ten of this article, and
13 if no application is made within the time therein
14 specified, such surplus shall be distributed by the sheriff
15 in the manner provided by law for the distribution of
16 property taxes collected by him; and (3) the balance, if
17 any, of the proceeds of the lands included in each suit
18 shall be prorated among the various taxing units on the
19 basis of the total amount of taxes due them in respect
20 to the lands that were sold or redeemed. The amounts
21 so determined shall be credited as follows, for payment

22 as hereinafter provided: (1) To the auditor, such part as
23 represents state taxes and interest; and (2) to the fund
24 kept by the sheriff for each local taxing unit, such part
25 as represents taxes and interest payable to such unit.

26 All amounts which under the provisions of this section
27 were so credited by the sheriff to the auditor shall be
28 paid to him semiannually; and those credited to the
29 various local taxing units shall be transferred semian-
30 nually by the sheriff to the fund kept by him for each
31 such taxing unit.

32 The tax commissioner, in cooperation with the land
33 department in the auditor's office, shall prescribe the
34 form of the records to be kept by the sheriff for the
35 purposes of this section, and the method to be used by
36 him in making the necessary pro rata distributions.

**§11A-3-35. Disposition of lands heretofore purchased by
or forfeited to state; waste and unappropri-
ated lands; confirmation of prior
conveyances.**

1 (a) (1) The auditor shall report to the assessor of the
2 county in which the lands are situated for reentry on the
3 land books:

4 (A) All lands which have been heretofore purchased
5 by the state at a tax sale pursuant to the provisions of
6 any prior enactment of article three of this chapter and
7 which have not been redeemed from the auditor or
8 certified to the circuit court for sale as provided in any
9 prior enactment of this chapter; and

10 (B) All lands which have heretofore been forfeited to
11 the state pursuant to the provisions of any prior
12 enactment of this chapter, and which have not been
13 certified to the circuit court for sale pursuant to such
14 article; and

15 (C) All lands which have heretofore been certified to
16 the circuit court for sale by the deputy commissioner
17 pursuant to the provisions of any prior enactment of this
18 chapter; and

19 (D) All lands subject to sale under any court order

20 entered in any action for the sale thereof pursuant to the
21 provisions of any prior enactment of this chapter which
22 have not yet been sold pursuant to such order; and

23 (E) All lands which have heretofore been determined
24 to be waste and unappropriated lands pursuant to the
25 provisions of any prior enactment of this code.

26 (2) Prior to reporting such lands to the assessor, the
27 auditor shall cause an examination of the title of each
28 parcel, tract or lot of land described in subparagraphs
29 (A), (B), (C), (D) and (E) of subdivision one of this
30 subsection to determine, as to each parcel, tract or lot
31 of such land, whether the same is subject to assessment
32 or taxation pursuant to any provision of this code. Each
33 examination of title shall be certified by an attorney at
34 law admitted to practice before the supreme court of
35 appeals of this state. The auditor shall attach an
36 authenticated copy of such certificate of title for each
37 land so examined to the report required by this section.
38 The auditor shall set forth in the report to each assessor
39 the auditor's determination, for each parcel, tract or lot
40 of land or portion thereof described therein, as to
41 whether the same is subject to assessment or taxation.
42 Such lands that the auditor determines to be subject to
43 assessment or taxation as disclosed by the report shall
44 be reentered on the land books in the name of the person
45 charged with taxes on the land at the time of purchase
46 by the state, and charged with all unpaid taxes thereon,
47 including those taxes which have accrued since such
48 purchase by the state, and all costs charged to such
49 lands arising from the tax sale and purchase by the
50 state. Lands heretofore determined to be waste and
51 unappropriated lands which are determined by the
52 auditor to be subject to assessment or taxation as
53 disclosed by the report shall be entered on the land
54 books as the property of person or persons unknown and
55 assessed and levied upon as are other lands. All such
56 lands entered on the land books which are determined
57 by the auditor to be subject to assessment or taxation
58 as disclosed by the report shall then be subject to
59 disposition pursuant to this article. Each parcel, tract
60 or lot or portion thereof of land which the auditor
61 determines as set forth in the report is not subject to

62 assessment or taxation shall not be reentered on the land
63 books by the assessor nor shall the assessor be required
64 to make any inquiry into the accuracy of the auditor's
65 determination that the land or portion thereof is not
66 subject to assessment or taxation: *Provided*, That where
67 the assessor otherwise discovers that such land is subject
68 to assessment or taxation, the assessor shall enter such
69 land on the land books.

70 (b) All actions heretofore instituted by the deputy
71 commissioners pursuant to the provisions of any prior
72 enactment of article four of this chapter, which have not
73 been reduced to judgment for the sale of all lands listed
74 in such suits, are hereby dismissed, and the lands listed
75 in such suits shall be reported by the auditor to the
76 assessor of the county in which the lands are situated
77 for reentry on the land books. Such lands shall be
78 reentered on the land books in the name of the person
79 charged with taxes on the land at the time of purchase
80 by the state, and charged with all unpaid taxes thereon,
81 including those taxes which have accrued since such
82 purchase by the state, and all costs charged to such
83 lands arising from the tax sale and purchase by the
84 state. Such lands shall then be subject to disposition
85 pursuant to this article.

86 (c) Any circuit court in which an action described in
87 this section is pending shall make all necessary orders
88 for such discontinuance and dismissal.

89 (d) The auditor shall report all lands required to be
90 reported pursuant to the provisions of this section on or
91 before the thirtieth day of June, one thousand nine
92 hundred ninety-four.

93 (e) All sales of lands which resulted in subsequent
94 conveyances of title thereto, and orders or decrees
95 adjudicating title made in any circuit court actions
96 which resulted in subsequent conveyances of title, which
97 became final prior to the effective date of this enactment
98 for the sale of lands for the benefit of the school fund
99 are hereby confirmed. All sheriff sales of lands which
100 resulted in subsequent conveyances of title thereto as the
101 result of the delinquency in the payment of taxes

102 therefor which became final prior to the effective date
103 of this enactment are hereby confirmed. Whatever right,
104 title or interest the state or any person having the right
105 to redeem the same had in any such lands shall be
106 deemed to have vested in the purchaser, grantee or
107 transferee thereof. Notwithstanding any irregularity,
108 error or mistake in such action or in the tax enforcement
109 proceedings prior thereto, such title shall not hereafter
110 be subject to attack. This paragraph is enacted in
111 furtherance of the purpose and policy set forth in section
112 one, article three of this chapter.

§11A-3-36. Land record in auditor's office.

1 The auditor shall keep in his office the permanent
2 record of all forfeited, delinquent, escheated, and waste
3 and unappropriated lands prepared prior to the effec-
4 tive date of this enactment. The auditor shall prepare
5 and keep in his office a permanent record of all
6 delinquent and escheated lands. The record shall as to
7 every tract or lot listed set forth the information
8 available as to quantity, local description, and the name
9 of the former owner and the respective dates of
10 delinquency and sale of the tax lien thereon, or escheat,
11 as the case may be. The record shall be prima facie
12 evidence of all matters required by this section to be set
13 forth therein, including the correctness of the descrip-
14 tion of lands as delinquent or escheated.

§11A-3-37. Disposition of escheated lands.

1 The auditor shall report all escheated lands to the
2 county commission of the county in which such lands are
3 situated. Thereafter, the lands shall be sold. The sale
4 shall be conducted in a manner which substantially
5 conforms with the provisions for the sale of lands set
6 forth in subsection (c), section thirty-three of this article:
7 *Provided*, That no county commission may refuse to
8 offer any escheated land for sale, nor shall any county
9 upon sale convey less title thereto than that which
10 escheated. The sale shall be conducted within ninety
11 days after the same has been reported by the auditor
12 to the assessor, and if there be no purchase at such sale,
13 the land shall be offered for private sale thereafter until

14 sold.

§11A-3-38. Right of creditor of former owner of escheated land; disposition of sale proceeds.

1 Any surplus proceeds arising from the sale of
2 escheated land, after the payment of all expenses of the
3 sale thereof, may be applied for by the creditors of the
4 decedent if application is made to the county commission
5 that sold the land within one year after the date of
6 confirmation of said sale. Upon proper application to the
7 commission within such time, such surplus may be
8 applied to the satisfaction of the claims of creditors of
9 the decedent who had a lien on the land at the time of
10 his death, or who, being general creditors, have properly
11 proved their claims against his estate and have been
12 unable to obtain payment out of the personalty. In the
13 disposition of such surplus, due preference shall be
14 given to lien creditors. Any part of such surplus
15 thereafter remaining shall be paid by the sheriff to the
16 auditor for credit to the general school fund.

§11A-3-39. Disposition of nonentered lands.

1 It is the duty of the owner of land to have his land
2 entered for taxation on the land books of the appropriate
3 county, have himself charged with the taxes due
4 thereon, and pay the same. Where any land is discovered
5 which has not been entered on the land book, the same
6 shall be entered thereon. The owner thereof shall be
7 liable for all prior real estate taxes thereon, including
8 interest, which would have been due and payable
9 therefor, as determined by the assessor, had the land
10 been entered on the land book: *Provided*, That the owner
11 shall not be liable for more than the taxes and interest
12 which would have become due and payable during the
13 ten years immediately preceding the date the land was
14 entered on the land book. Except for any taxes for the
15 current year which would not otherwise be delinquent,
16 all such prior taxes shall be delinquent upon discovery
17 and disposition of the tax lien or liens therefor shall be
18 the same as the disposition of tax liens on delinquent
19 lands which had been entered on the land book under

20 the provisions of this chapter.

§11A-3-40. Liability of officer failing to perform duty; penalty.

1 If any officer mentioned in this article shall fail or
2 refuse to perform any duty required of him, he and the
3 sureties on his official bond shall be liable in an action
4 on the bond for such damages as may be sustained by
5 any person by reason of such failure. In addition to this
6 liability, he shall forfeit not less than twenty-five nor
7 more than one hundred dollars for each failure or
8 refusal, unless a different penalty is imposed by the
9 provisions of this article.

ARTICLE 4. REMEDIES AND REDEMPTIONS FROM SALE OF TAX LIENS.

§11A-4-1. Declaration of legislative purpose.

1 In furtherance of the policy declared in section one,
2 article three of this chapter, it is the intent and purpose
3 of the Legislature to provide reasonable opportunities
4 for delinquent taxpayers to protect their interests in
5 their lands and to provide reasonable remedies in
6 certain circumstances for persons with interests in
7 delinquent and escheated lands.

§11A-4-2. Right to set aside sale or deed when all taxes paid before sale.

1 Any owner of real estate for which a tax lien was sold
2 for nonpayment of taxes pursuant to the provisions of
3 article three of this chapter, when all taxes thereon had
4 in fact been paid before the sale, his heirs and assigns,
5 or the person who paid the taxes, may, before the
6 expiration of three years following the sale, whether the
7 sale was to an individual or to the county, institute a
8 civil action to set aside the sale and to enjoin the proper
9 official from taking any further steps in the procedure
10 provided in this and the following article, or, if a deed
11 has been delivered to the purchaser, before the expira-
12 tion of three years following the delivery of the deed,
13 institute a civil action to set aside the deed. If such
14 action is instituted by or on behalf of the owner of a
15 undivided interest which was included in a group

16 assessment but which was separately redeemed as
17 provided in section eighteen, article two of this chapter,
18 the sale or the deed shall be set aside only insofar as
19 it affects his interest.

§11A-4-3. Right to set aside deed improperly obtained.

1 Whenever the clerk of the county commission has
2 delivered a deed to the purchaser after the time
3 specified in section twenty-seven of article three of this
4 chapter, or, within that time, has delivered a deed to a
5 purchaser who was not entitled thereto either because
6 of his failure to meet the requirements of section twenty-
7 three of said article three, or because the property
8 conveyed had been redeemed, the owner of such
9 property, his heirs and assigns, or the person who
10 redeemed the property, may, before the expiration of
11 three years following the delivery of the deed, institute
12 a civil action to set aside the deed. No deed shall be set
13 aside under the provisions of this section, except in the
14 case of redemption, until payment has been made or
15 tendered to the purchaser, or his heirs or assigns, of the
16 amount which would have been required for redemp-
17 tion, together with any taxes which have been paid on
18 the property since delivery of the deed, with interest at
19 the rate of twelve percent per annum.

§11A-4-4. Right to set aside deed when one entitled to notice not notified.

1 If any person entitled to be notified under the
2 provisions of section twenty-six of article three of this
3 chapter is not served with the notice as therein required,
4 and does not have actual knowledge that such notice has
5 been given to others in time to protect his interests by
6 redeeming the property, he, his heirs and assigns, may,
7 before the expiration of three years following the
8 delivery of the deed, institute a civil action to set aside
9 the deed. No deed shall be set aside under the provisions
10 of this section until payment has been made or tendered
11 to the purchaser, or his heirs or assigns, of the amount
12 which would have been required for redemption,
13 together with any taxes which have been paid on the
14 property since delivery of the deed, with interest at the

15 rate of twelve percent per annum.

§11A-4-5. On whose behalf suits instituted; decree when deed set aside.

1 Any civil action instituted under the provisions of
2 sections two, three or four of this article by a person
3 other than the former owner, his heirs or assigns, must
4 be brought on his or their behalf. Whenever the deed
5 in such case is set aside, the decree shall be that all the
6 right, title and interest of the former owner, his heirs
7 or assigns, is revested in him or them.

§11A-4-6. Redemption from purchase by individual; receipt; list of redemptions; lien.

1 After the sale of any tax lien on any real estate
2 pursuant to article three of this chapter, the owner of,
3 or any other person who was entitled to pay the taxes
4 on, any real estate for which a tax lien thereon was
5 purchased by an individual, may redeem at any time
6 before a tax deed is issued therefor. In order to redeem,
7 he must pay to the purchaser, his heirs or assigns, the
8 following amounts: (1) The amount of purchase money
9 paid to the sheriff, with interest at the rate of one
10 percent per month from the date of sale. (2) All other
11 taxes thereon, which have since been paid by the
12 purchaser, his heirs or assigns, with interest at the rate
13 of one percent per month from the date of payment. (3)
14 Such additional expenses as may have been incurred in
15 procuring the examination of the title in order to
16 prepare the list of those to be served with notice and
17 giving the notice required by sections twenty-five and
18 twenty-six of article three of this chapter, with interest
19 at the rate of one percent per month, but the amount
20 he shall be required to pay for the expenses incurred
21 for the title examination and the preparation of the list
22 of those to be served with notice to redeem, required by
23 section twenty-three of this article, shall not exceed one
24 hundred dollars from the date the same was paid.

25 The person redeeming shall be given duplicate
26 receipts for the payment. If the purchaser, his heirs or
27 assigns, shall refuse or fail to sign and give such receipts
28 when lawfully required to do so, he or they shall pay

29 to the person redeeming twice the amount of such
30 payment, which may be recovered by action on the case
31 in any court of competent jurisdiction. One of such
32 receipts shall be filed with the clerk of the county
33 commission on or before the day on which the right to
34 redeem expires. The clerk shall endorse on both receipts
35 the fact and time of such filing, and shall note the fact
36 of redemption on his record of delinquent lands. If the
37 receipt is not filed on or before such date, the redemp-
38 tion shall be void as to creditors and subsequent bona
39 fide purchasers from the purchaser, his heirs or assigns.
40 If, however, the receipt is filed after the date required,
41 it shall operate as notice from and after the date of
42 filing. In April of each year the clerk of the county
43 commission shall prepare and certify to the auditor a list
44 of all redemptions from sales to individual purchasers,
45 which have not been included in any former list.

46 Any person who, by reason of the fact that no
47 provision is made for partial redemption of the tax lien
48 on real estate purchased by an individual, is compelled
49 in order to protect himself to redeem the tax lien on all
50 of such real estate when it belongs in whole or in part
51 to some other person, shall have a lien on the interest
52 of such other person for the amount paid to redeem such
53 interest. He shall lose his right to the lien, however,
54 unless within thirty days after payment he shall file
55 with the clerk of the county commission his claim in
56 writing against the owner of such interest, together with
57 the receipt provided for in this or section seven of this
58 article. The clerk shall docket the claim on the judgment
59 lien docket in his office and properly index the same.
60 Such lien may be enforced as other judgment liens are
61 enforced.

§11A-4-7. Payment of redemption money to clerk.

1 Whenever the purchaser, his heirs or assigns shall
2 refuse to accept payment of the redemption money, or
3 cannot be found or does not reside in the county,
4 payment may be made to the clerk of the county
5 commission at any time before the right to redeem
6 expires. The clerk shall issue duplicate receipts, one to
7 be filed by him in his office, and shall note the fact of

8 redemption on his record of delinquent lands. The clerk
9 shall forthwith notify the purchaser by mail of such
10 redemption.

§11A-4-8. Contest of redemption by payment to clerk.

1 If the purchaser, his heirs or assigns, dispute the right
2 to redeem of the person making payment to the clerk
3 as provided in section seven of this article, he or they
4 may, within one year after payment to the clerk, give
5 to such person, or to his heirs, or personal representa-
6 tive, notice in writing of such dispute, requiring him or
7 them to appear before the circuit court of the county,
8 on a day to be named in the notice, and prove that the
9 person who made the payment had a right to redeem.
10 Such notice shall be served at least ten days before the
11 day on which it is returnable, and if the party served
12 fails to appear, or if he appears and fails to prove the
13 right to redeem, the court shall enter an order cancel-
14 ling the redemption and, if the period of redemption has
15 then expired and all other conditions of section twenty-
16 three, article three of this chapter have been complied
17 with, directing the clerk to execute and deliver to the
18 purchaser, or his heirs or assigns, a deed for the
19 property. If the other conditions have not been complied
20 with, the court may enter an order allowing reasonable
21 additional time for compliance, authorizing, as a
22 substitute for the notice required by section twenty-five
23 of said article three, preparation and service of a notice
24 to redeem within ninety days, and directing the clerk
25 to execute the deed upon the expiration of such period
26 of redemption. Any deed executed pursuant to an order
27 of the court provided for in this section shall have the
28 same force and effect as if executed and delivered
29 within the time specified in section twenty-seven of said
30 article three. The clerk of the county commission shall
31 enter such order on his record of delinquent lands and
32 shall return the money to the person who made the
33 payment, or to his personal representative. If, however,
34 the decision is that such person had the right to redeem,
35 the clerk shall pay the money to the purchaser, or his
36 heirs or assigns.

37 If the purchaser, his heirs or assigns, admit the right

38 to redeem but claim that the sum paid the clerk was
39 insufficient, he or they may upon similar notice have the
40 sufficiency of the payment determined by the court. If
41 the person redeeming fails to appear or if the decision
42 is that the sum paid was insufficient, the court shall,
43 unless such additional amount as may be found to be due
44 is paid within thirty days, enter an order cancelling the
45 redemption, and shall also enter such further appropriate
46 orders as are authorized to be entered under the
47 preceding paragraph. If the sum is found to have been
48 sufficient, the court shall make such orders as are
49 appropriate when the right to redeem is sustained under
50 the preceding paragraph of this section.

**§11A-4-9. Redemption by persons under disability from
purchase by individual.**

1 In addition to and notwithstanding any other provi-
2 sions of this article, any infant or mentally incapacitated
3 person whose real estate was, during such disability,
4 conveyed by tax deed pursuant to this chapter to an
5 individual purchaser, may redeem such real estate by
6 paying to the purchaser, or his heirs or assigns, before
7 the expiration of one year after removal of the disability,
8 but in no event more than twenty years after the deed
9 was obtained, the amount of the purchase money,
10 together with the necessary charges incurred in obtain-
11 ing the deed, and any taxes paid on the property since
12 the sale, with interest on such items at the rate of twelve
13 percent per annum from the date each was paid. If such
14 person was the owner of an undivided interest in the
15 real estate sold, he may redeem such interest by paying
16 that proportion of the purchase money, charges, taxes
17 and interest chargeable to his interest; but after a deed
18 has been delivered to the purchaser, he shall not have
19 the right to redeem more than his own undivided
20 interest. If improvements have been made on such real
21 estate after the deed was obtained and before the offer
22 to redeem as herein provided, the person redeeming
23 shall pay to the purchaser, or his heirs or assigns, the
24 value of the improvements at the time of such offer,
25 after deducting therefrom the value of the use of such
26 real estate without the improvements, from the date of

27 the deed to the date of the offer. Upon payment or
28 tender of payment, the purchaser, his heirs or assigns,
29 shall, at the expense of the person redeeming, convey to
30 him by quitclaim deed the real estate so redeemed.

31 One entitled to redeem under the provisions of this
32 section may, if he is unable or is not willing to pay for
33 the improvements made by the purchaser, elect to
34 relinquish his interest in the property. If he so elects,
35 he shall be entitled to an amount equal to the estimated
36 present value of the land without the improvements less
37 what he would have had to pay to redeem the land had
38 no improvements been made. Upon payment to him of
39 such amount, he shall by quitclaim deed convey the land
40 to the purchaser, his heirs or assigns.

41 If in any case provided for in this section the parties
42 cannot agree on the amount to be paid, any of them may
43 upon ten days' notice in writing to the other, or others,
44 apply by petition, to the circuit court of the county in
45 which the real estate is situated to have the matter
46 referred to a commissioner to ascertain the proper
47 amount to be paid. Upon confirmation by the court or
48 judge of the report of the commissioner, and upon
49 payment or tender of the amount, if any, so ascertained
50 to be due, the person to whom payment or tender was
51 made, shall execute the quitclaim deed as provided
52 above. In the event of his refusal to do so, the court, or
53 judge, may appoint a commissioner to execute the deed.

54 If there is a refusal to execute the deed in any case
55 in which there was no dispute as to the amount
56 necessary for redemption, the person entitled to the deed
57 may, upon ten days' notice in writing to the other party
58 or parties, apply by petition to the circuit court for the
59 appointment of a commissioner to execute the deed.

§11A-4-10. Redemption from purchase by county.

1 The former owner of any real estate for which a tax
2 lien thereon was purchased by the county, or any other
3 person who was entitled to pay the taxes thereon, may
4 redeem the lien on such real estate from the clerk of the
5 county commission at any time prior to the issuance of
6 a tax deed therefor pursuant to the provisions of this

7 chapter.

8 In order to redeem the person seeking redemption
9 must pay to the clerk such of the following amounts as
10 may be due: (1) The taxes, interest and charges for
11 which the tax lien on the real estate was sold, with
12 interest at the rate of twelve per cent per annum from
13 the date of sale; (2) all taxes assessed thereon for the
14 year in which the sale occurred, with interest at the rate
15 of twelve per cent per annum from the date on which
16 they became delinquent, except when such taxes are
17 currently due and payable to the sheriff; and (3) the fee
18 provided by section eleven of this article for the issuance
19 by the clerk of the certificate of redemption.

20 In the case of partial redemption, he must pay only
21 that proportion of such taxes as are chargeable to the
22 part or interest redeemed, but must pay all of the other
23 charges and the fee required for redemption of the
24 whole. However, redemption of an undivided interest
25 included in a group assessment or of part of a tract or
26 lot the whole of which was assessed in the name of a
27 person other than the owner shall not be permitted until
28 the applicable provisions of section nine or of section ten,
29 article one of this chapter, have been complied with.

**§11A-4-11. Certificate of redemption issued by clerk;
recordation; disposition of redemption
money.**

1 Upon payment of the sum necessary to redeem, the
2 clerk shall execute a certificate of redemption in
3 duplicate, which certificate shall specify the real estate
4 redeemed, or the part thereof or the interest therein, as
5 the case may be, together with any changes in respect
6 thereto which were made in the landbook and in the
7 record of delinquent lands; shall specify the year or
8 years for which payment was made; and shall state that
9 it is a receipt for the money paid and a release of the
10 county's title to the tax lien on the real estate redeemed.
11 The original certificate shall be retained in the files in
12 the clerk's office and one copy shall be delivered to the
13 person redeeming. The clerk shall make any necessary
14 changes in his record of delinquent lands and shall note

15 the fact of redemption on such record, and shall record
16 the certificate in a separate volume provided for the
17 purpose.

18 The fee for issuing the certificate of redemption shall
19 be twenty-five dollars.

20 All certificates of redemption issued by the clerk in
21 each year shall be numbered consecutively and shall be
22 filed by the clerk in numerical order. Reference to the
23 year and number of the certificate shall be included in
24 the notation of redemption required herein. No fee shall
25 be charged by the clerk for any recordation, filing or
26 notation required by this section.

27 Any redemption money received by the clerk pursuant
28 to the provisions of this chapter shall be delivered to the
29 sheriff for disposition thereof pursuant to the provisions
30 of sections ten and thirty-four, article three of this
31 chapter.

**§11A-4-12. Liability of officer failing to perform duty;
penalty.**

1 If any officer mentioned in this article shall fail or
2 refuse to perform any duty required of him, he and the
3 sureties on his official bond shall be liable in an action
4 on the bond for such damages as may be sustained by
5 any person by reason of such failure. In addition to this
6 liability, he shall forfeit not less than twenty-five nor
7 more than one hundred dollars for each failure or
8 refusal, unless a different penalty is imposed by the
9 provisions of this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten Signature]

Chairman Senate Committee

Ernest C Moore

Chairman House Committee

Originating in the House.

Takes effect July 1, 1993.

Harriet Parkins

Clerk of the Senate

Donald L. Koff

Clerk of the House of Delegates

Neil D. Smith

President of the Senate

Willie Wilson

Speaker of the House of Delegates

The within *is disapproved* this the *12th* day of *May* 1993.

Lyndon Johnson

Governor

PRESENTED TO THE

GOVERNOR

Date 4/30/93

Time 3:35pm