

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 148

FISCAL
NOTE

BY SENATOR SYPOLT

[Introduced January 10, 2018; Referred
to the Committee on Natural Resources; and then to the
Committee on Finance]

1 A BILL to amend and reenact §11A-3-19, §11A-3-21, §11A-3-23, §11A-3-52, §11A-3-54 and
 2 §11A-3-56 of the Code of West Virginia, 1931, as amended; to amend said code by adding
 3 thereto four new sections, designated §11A-3-23a, §11A-3-23b, §11A-3-58a and §11A-3-
 4 58b; and to amend and reenact §11A-4-4 of said code, all relating to permitting surface
 5 owners to purchase the mineral interests that lay below the property when the mineral
 6 interest becomes subject to a tax lien; permitting mineral owners to purchase the surface
 7 interest that lies above the mineral interest when the surface tract become subject to
 8 establishing procedures; requiring notice; establishing the purchase prices; establishing
 9 nonrefundable \$20 administrative fee; providing a procedure if more than one surface
 10 owner seeks to purchase the delinquent mineral interest; modifying notices to redeem that
 11 are sent to property owners; and providing remedies relating to tax sales.

Be it enacted by the Legislature of West Virginia:

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

§11A-3-19. What purchaser must do before the deed can be secured.

1 (a) At any time after October 31 of the year following the sheriff's sale, and on or before
 2 December 31 of the same year, the purchaser, his or her heirs or assigns, in order to secure a
 3 deed for the real estate subject to the tax lien or liens purchased, shall:

4 (1) Prepare a list of those to be served with notice to redeem and request the State Auditor
 5 to prepare and serve the notice as provided in §11A-3-21 and §11A-3-22 of this code;

6 (2) When the real property subject to the tax lien is classified as Class II property, provide
 7 the State Auditor with the physical mailing address of the property that is subject to the tax lien or
 8 liens purchased;

9 (3) Provide the State Auditor with a list of any additional expenses incurred after January
 10 1 of the year following the sheriff's sale for the preparation of the list of those to be served with

11 notice to redeem including proof of the additional expenses in the form of receipts or other
12 evidence of reasonable legal expenses incurred for the services of any attorney who has
13 performed an examination of the title to the real estate and rendered written documentation used
14 in the preparation of the list of those to be served with the notice to redeem. However, for an
15 interest in real estate identified in subsection (b) of this section, and for an interest in real estate
16 identified in subsection (c) of this section the purchaser, or other authorized person, of the
17 property shall pay the reasonable costs related to preparing the list of those served with notice to
18 redeem, other than surface owners, as provided by §11A-23(a)(3) of this code;

19 (4) Deposit with the State Auditor a sum sufficient to cover the costs of preparing and
20 serving the notice; and

21 (5) Present the purchaser's certificate of sale, or order of the county commission where
22 the certificate has been lost or wrongfully withheld from the owner, to the State Auditor.

23 If the purchaser fails to meet these requirements, he or she shall lose all the benefits of
24 his or her purchase.

25 (b) For an interest in real estate subject to the tax lien that includes minerals, but not an
26 interest in the surface other than for developing the minerals, the list shall include the last known
27 name and mailing address of the taxpayer who receives a tax ticket for the surface property shown
28 on the tax maps identified in §11-1C-7(e) of this code that lie above the mineral tract. If these
29 requirements are not met, all the benefits of the purchase will be lost. However, no deed to a bona
30 fide purchaser for value from a purchaser, or a surface owner substituted for a purchaser, may
31 be set aside for failure of the purchaser to comply with this subsection, but this limitation does not
32 affect any other remedies at law.

33 (c) For an interest in real estate subject to the tax lien that includes surface, but not an
34 interest in the minerals, the list shall include the last known name and mailing address of the
35 taxpayer who receives a tax ticket for the surface property shown on the tax maps identified in
36 §11-1C-7(e) of this code that lie above the mineral tract. If these requirements are not met, all the

37 benefits of the purchase will be lost. However, no deed to a bona fide purchaser for value from a
 38 purchaser, or a surface owner substituted for a purchaser, may be set aside for failure of the
 39 purchaser to comply with this subsection, but this limitation does not affect any other remedies at
 40 law.

41 ~~(b)~~ (d) If the person requesting preparation and service of the notice is an assignee of the
 42 purchaser, he or she shall, at the time of the request, file with the State Auditor a written
 43 assignment to him or her of the purchaser's rights, executed, acknowledged and certified in the
 44 manner required to make a valid deed.

45 ~~(c)~~ (e) Whenever any certificate given by the sheriff for a tax lien on any land, or interest
 46 in the land sold for delinquent taxes, or any assignment of the lien is lost or wrongfully withheld
 47 from the rightful owner of the land and the land or interest has not been redeemed, the county
 48 commission may receive evidence of the loss or wrongful detention and, upon satisfactory proof
 49 of that fact, may cause a certificate of the proof and finding, properly attested by the State Auditor,
 50 to be delivered to the rightful claimant and a record of the certificate shall be duly made by the
 51 county clerk in the recorded proceedings of the commission.

§11A-3-21. Notice to redeem.

1 (a) Whenever ~~the provisions of~~ §11A-3-19 of this code ~~have~~ has been complied with, the
 2 State Auditor shall prepare a notice in form or effect as follows:

3 To _____.

4 You will take notice that _____, the purchaser (or _____, the
 5 assignee, heir or devisee of _____, the purchaser) of the tax lien(s) on the following
 6 real estate, _____, (here describe the real estate for which the tax lien(s) thereon
 7 were sold) located in _____, (here name the city, town or village in which the
 8 real estate is situated or, if not within a city, town or village, give the district and a general
 9 description) which was returned delinquent in the name of _____, and for which the
 10 tax lien(s) thereon was sold by the sheriff of _____ County at the sale for

11 delinquent taxes made on the _____ day of _____, 20____, has requested
 12 that you be notified that a deed for such real estate will be made to him or her on or after April 1,
 13 20 _____, as provided by law, unless before that day you redeem such real estate. The amount
 14 you will have to pay to redeem on the last day, March 31, will be as follows:

15 Amount equal to the taxes, interest, and charges due on the date of sale, with interest to
 16 March 31, 20 _____ \$_____.

17 Amount of subsequent years taxes paid on the property, since the sale, with interest to
 18 March 31, 20 _____ \$_____

19 Amount paid for title examination and preparation of list of those to be served, and for
 20 preparation and service of the notice with interest from January 1, 20 (insert year) following the
 21 sheriff's sale to March 31, 20 _____ \$_____

22 Amount paid for other statutory costs (describe) _____
 23 \$_____

24 Total \$_____

25 You may redeem at any time before March 31, 20 _____, by paying the above
 26 total less any unearned interest.

27 NOTE: If you have received this notice because you are the owner of an interest in the
 28 surface overlaying a mineral interest or an owner of a mineral interest that the above surface tract
 29 that was returned delinquent, you may pay the clerk twice the amount identified above, plus a
 30 nonrefundable \$20 administrative fee, before March 1, 20 ____ . If you pay the required amount
 31 and the property is then redeemed, that amount you paid, less the administrative fee, will be
 32 refunded to you. If you pay the required amount and the property is not redeemed, you will be
 33 substituted for the purchaser of the tax lien and you may proceed to obtain a deed for the property.
 34 If you and one or more additional surface owners or mineral owners each pay the appropriate
 35 amount, all the surface owners or mineral owners who have made payment shall submit, by April
 36 1, 20 _____, an agreement dividing the real estate according to their proportionate shares or any

37 other method or formula agreed to among all of you. If an agreement is not filed, the clerk shall
 38 refund the moneys tendered by the surface owners or mineral owners, less the administrative
 39 fees, and none of you will be substituted for the purchaser of the tax lien.

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

41 _____

42 State Auditor, State of West Virginia

43 (b) The State Auditor for his or her service in preparing the notice shall receive a fee of
 44 \$10 for the original and \$2 for each copy required. Any additional costs which must be expended
 45 for publication, or service of the notice in the manner provided for serving process commencing
 46 a civil action, or for service of process by certified mail, shall be charged by the State Auditor. All
 47 costs provided by this section shall be included as redemption costs and included in the notice
 48 described in this section.

**§11A-3-23. Redemption from purchase; receipt; list of redemptions; lien; lien of person
 redeeming interest of another; record.**

1 (a) After the sale of any tax lien on any real estate pursuant to §11A-3-5 of this code, the
 2 owner of, or any other person who was entitled to pay the taxes on, any real estate for which a
 3 tax lien on the real estate was purchased by an individual may redeem at any time before a tax
 4 deed is issued for the real estate. In order to redeem, he or she shall pay to the State Auditor the
 5 following amounts:

6 (1) An amount equal to the taxes, interest and charges due on the date of the sale, with
 7 interest at the rate of one percent per month from the date of sale;

8 (2) All other taxes which have since been paid by the purchaser, his or her heirs or assigns,
 9 with interest at the rate of one percent per month from the date of payment;

10 (3) Any additional expenses incurred from January 1 of the year following the sheriff's sale
 11 to the date of redemption for the preparation of the list of those to be served with notice to redeem
 12 and any written documentation used for the preparation of the list, with interest at the rate of one

13 percent per month from the date of payment for reasonable legal expenses incurred for the
14 services of an attorney who has performed an examination of the title to the real estate and
15 rendered written documentation used for the preparation of the list: *Provided*, That the maximum
16 amount the owner or other authorized person shall pay, excluding the interest, for the expenses
17 incurred for the preparation of the list of those to be served required by §11A-3-19 of this code is
18 \$300, plus any costs required by §11A-3-19(b); *Provided however*, That the attorney may only
19 charge a fee for legal services actually performed and must certify that he or she conducted an
20 examination to determine the list of those to be served required by §11A-3-19 of this code; and

21 (4) All additional statutory costs paid by the purchaser.

22 (b) Where the State Auditor has not received from the purchaser satisfactory proof of the
23 expenses incurred in preparing the notice to redeem, and any written documentation used for the
24 preparation of the list of those to be served with notice to redeem, including the certification
25 required in subdivision (3), subsection (a) of this section, incident thereto, in the form of receipts
26 or other evidence of legal expenses, incurred as provided in §11A-3-19 of this code, the person
27 redeeming shall pay the State Auditor the sum of \$300 plus interest at the rate of one percent per
28 month from January 1 of the year following the sheriff's sale for disposition by the sheriff ~~pursuant~~
29 ~~to the provisions of~~ under §11A-3-10, §11A-3-24, §11A-3-25, and §11A-3-32 of this code.

30 (c) The person redeeming shall be given a receipt for the payment and the written opinion
31 or report used for the preparation of the list of those to be served with notice to redeem required
32 by §11A-3-19 of this code.

33 (d) Any person who, by reason of the fact that no provision is made for partial redemption
34 of the tax lien on real estate purchased by an individual, is compelled in order to protect himself
35 or herself to redeem the tax lien on all of the real estate when it belongs, in whole or in part, to
36 some other person, shall have a lien on the interest of that other person for the amount paid to
37 redeem the interest. He or she shall lose his or her right to the lien, however, unless within thirty
38 days after payment he or she files with the clerk of the county commission his or her claim in

39 writing against the owner of the interest, together with the receipt provided in this section. The
40 clerk shall docket the claim on the judgment lien docket in his or her office and properly index the
41 claim. The lien may be enforced as other judgment liens are enforced.

42 (e) Before a tax deed is issued, the county clerk may accept, on behalf of the State Auditor,
43 the payment necessary to redeem any real estate encumbered with a tax lien and write a receipt.
44 The amount of the payment necessary to redeem any real estate encumbered with a tax lien shall
45 be provided by the State Auditor and the State Auditor shall update the required payments plus
46 interest at least monthly.

47 (f) On or before the tenth day of each month, the county clerk shall deliver to the State
48 Auditor the redemption money paid and the name and address of the person who redeemed the
49 property on a form prescribed by the State Auditor.

§11A-3-23a. Surface owner substitution for purchaser.

1 (a) If the real estate interest subject to a tax lien is an interest that includes minerals, but
2 does not include an interest in the surface other than an interest for the purpose of developing
3 the minerals, then prior to March 31 of the year following the sale an owner of record of the surface
4 above the property subject to the tax lien being sold may pay the clerk: (1) The amount that would
5 be required for redemption pursuant to §11A-3-23 of this code; (2) the lesser of either the amount
6 identified above or \$3,000; and (3) a nonrefundable \$20 administrative fee. The clerk shall issue
7 the surface owner a certificate of substitution and send a copy to the purchaser. If more than one
8 surface owner makes this payment to the clerk, the clerk shall issue each a certificate of
9 substitution for each and send copies of the certificates of substitution to the others in addition to
10 the purchaser.

11 (b) If the property is redeemed, the clerk shall refund the moneys paid, less the
12 administrative fees.

13 (c) If the property is not redeemed, and if only one surface owner has received a certificate
14 of substitution, then the clerk shall send the amount paid by the surface owner to the purchaser,

15 less the \$20 administrative fee, and record the certificate of substitution. That surface owner
16 enjoys the full rights and duties of the purchaser.

17 (d) If more than one surface owner pays the clerk the appropriate amount the surface
18 owners shall submit an agreement dividing the property according to their proportionate shares,
19 or another mutually agreeable method or formula approved by all of them, by April 15 of the year
20 following the sale of the lien. No deed may be issued before April 15 of the year following the
21 sale. The interest of an owner of a surface tract shall be equal to the acreage stated on documents
22 of record even if the owner only owns an undivided interest. However, if more than one owner of
23 an undivided interest in the same tract pays the clerk the appropriate amount, his or her share
24 shall be the total acreage of the undivided tract divided by the number of owners of the tract who
25 have also paid the clerk. If an agreement is filed, then the clerk shall make an amended certificate
26 dividing the property according to their respective interests and refund any remaining moneys
27 paid by them according to their agreed interests. If no agreement is filed, the clerk shall refund
28 the moneys paid to the surface owners, less the \$20 administrative fees, and the original
29 purchaser is returned to his or her original position.

30 (e) Any purchaser under this section is prohibited from transferring the surface or mineral
31 estate once the fee is reestablished.

32 (f) If any provision of this subsection or the application to any person or circumstance shall
33 be held invalid, such invalidity shall not affect the provisions or applications of this article which
34 can be given effect without the invalid provisions or application, and to this end the provisions of
35 this article are declared to be severable.

§11A-3-23b. Mineral owner substitution for purchaser.

1 (a) If the real estate interest subject to a tax lien is an interest that includes minerals, but
2 does not include an interest in the surface other than an interest for the purpose of developing
3 the minerals, then prior to March 31 of the year following the sale an owner of record of the surface
4 above the property subject to the tax lien being sold may pay the clerk: (1) The amount that would

5 be required for redemption pursuant to §11A-3-23 of this code; (2) the lesser of either the amount
6 identified above or \$3,000; and (3) a nonrefundable \$20 administrative fee. The clerk shall issue
7 the surface owner a certificate of substitution and send a copy to the purchaser. If more than one
8 surface owner makes this payment to the clerk, the clerk shall issue each a certificate of
9 substitution for each and send copies of the certificates of substitution to the others in addition to
10 the purchaser.

11 (b) If the property is redeemed, the clerk shall refund the moneys paid, less the
12 administrative fees.

13 (c) If the property is not redeemed, and if only one surface owner has received a certificate
14 of substitution, then the clerk shall send the amount paid by the surface owner to the purchaser,
15 less the \$20 administrative fee, and record the certificate of substitution. That surface owner
16 enjoys the full rights and duties of the purchaser.

17 (d) If more than one surface owner pays the clerk the appropriate amount the surface
18 owners shall submit an agreement dividing the property according to their proportionate shares,
19 or another mutually agreeable method or formula approved by all of them, by April 15 of the year
20 following the sale of the lien. No deed may be issued before April 15 of the year following the
21 sale. The interest of an owner of a surface tract shall be equal to the acreage stated on documents
22 of record even if the owner only owns an undivided interest. However, if more than one owner of
23 an undivided interest in the same tract pays the clerk the appropriate amount, his or her share
24 shall be the total acreage of the undivided tract divided by the number of owners of the tract who
25 have also paid the clerk. If an agreement is filed, then the clerk shall make an amended certificate
26 dividing the property according to their respective interests and refund any remaining moneys
27 paid by them according to their agreed interests. If no agreement is filed, the clerk shall refund
28 the moneys paid to the surface owners, less the \$20 administrative fees, and the original
29 purchaser is returned to his or her original position.

30 (e) Any purchaser under this code section is prohibited from transferring the surface or
 31 mineral estate once the fee is reestablished.

32 (f) If any provision of this subsection or the application to any person or circumstance shall
 33 be held invalid, such invalidity shall not affect the provisions or applications of this article which
 34 can be given effect without the invalid provisions or application, and to this end the provisions of
 35 this article are declared to be severable.

§11A-3-52. What purchaser must do before ~~he can secure~~ securing a deed.

1 (a) Within forty-five days following the approval of the sale by the Auditor pursuant to
 2 §11A-3-51 of this code, the purchaser, his or her heirs or assigns, in order to secure a deed for
 3 the real estate purchased, shall:

4 (1) Prepare a list of those to be served with notice to redeem and request the Deputy
 5 Commissioner to prepare and serve the notice as provided in §11A-3-54 and §11A-3-55 of this
 6 code of this code;

7 (2) When the real property subject to the tax lien was classified as Class II property,
 8 provide the Deputy Commissioner with the actual mailing address of the property that is subject
 9 to the tax lien or liens purchased; and

10 (3) Deposit, or offer to deposit, with the Deputy Commissioner a sum sufficient to cover
 11 the costs of preparing and serving the notice.

12 (b) If the purchaser fails to fulfill the requirements set forth in ~~paragraph~~ subsection (a) of
 13 this section, the purchaser shall lose all the benefits of his or her purchase.

14 (c) After the requirements of ~~paragraph~~ subsection (a) of this section have been satisfied,
 15 the Deputy Commissioner may then sell the property in the same manner as he or she sells lands
 16 which have been offered for sale at public auction but which remain unsold after such auction, as
 17 provided in §11A-3-48 of this code.

18 (d) For an interest in real estate subject to the tax lien or liens that includes minerals but
 19 does not include an interest in the surface, except an interest for the purpose of developing the

20 minerals, or an interest in real estate subject to the tax lien or liens that includes an interest in the
 21 surface but not the minerals, the list shall include the last known name and mailing address of the
 22 taxpayer known to the sheriff to which the sheriff is required to send a tax ticket pursuant to
 23 §11A-1-8 of this code for all tracts of surface property shown on the tax maps, provided in
 24 §11-1C-7(e) of this code, that lie above the mineral tract subject to the tax lien or liens purchased.
 25 No deed to a bona fide purchaser for value from a tax lien purchaser or a surface owner
 26 substituted for a purchaser may be set aside for failure of the purchaser to comply with this
 27 subsection. This limitation does not affect any other remedies at law.

28 (d) (e) If the person requesting preparation and service of the notice is an assignee of the
 29 purchaser, he or she shall, at the time of the request, file with the Deputy Commissioner a written
 30 assignment to him or her of the purchaser’s rights, executed, acknowledged and certified in the
 31 manner required to make a valid deed.

§11A-3-54. Notice to redeem.

1 Whenever ~~the provisions of~~ §11A-3-52 of this code ~~have~~ has been complied with, the
 2 Deputy Commissioner shall thereupon prepare a notice in form or effect as follows:

3 To _____

4 You will take notice that _____, the purchaser (or _____, the
 5 assignee, heir or devisee of _____, the purchaser) of the following real estate,
 6 _____, (here describe the real estate sold) located in _____, (here
 7 name the city, town or village in which the real estate is situated or, if not within a city, town or
 8 village, give the district and a general description) which was _____ (here put
 9 whether the property was returned delinquent or nonentered) in the name of
 10 _____, and was sold by the deputy commissioner of delinquent and nonentered
 11 lands of _____ County at the sale for delinquent taxes (or nonentry) on the _____
 12 day of _____, 19 20____, has requested that you be notified that a deed for such
 13 real estate will be made to him or her on or after the _____ day of _____, 19 20____,

14 as provided by law, unless before that day you redeem such real estate. The amount you will
15 have to pay to redeem on the _____ day of _____, ~~19~~ 20__, will be as follows:

16 Amount equal to the taxes, interest and charges due on the date of sale, with interest to
17 _____\$_____

18 Amount of taxes paid on the property, since the sale, with interest to _____
19\$_____

20 Amount paid for title examination and preparation of list of those to be served, and for
21 preparation and service of the notice with interest to _____\$_____

22 Amount paid for other statutory costs (describe)
23 _____

24 _____ \$_____

25 Total \$_____

26 You may redeem at any time before _____ by paying the above total less
27 any unearned interest.

28 NOTE: If you are receiving this notice because you are the owner of an interest in the
29 surface overlaying a mineral interest or a mineral tract lying underneath a surface tract which was
30 returned delinquent, you may, before the above date, pay the Deputy Commissioner: (1) The
31 amount identified above; (2) the lesser of either the amount identified above or \$3,000; and (3) a
32 nonrefundable \$20 administrative fee. If you pay the required amount and the property is
33 redeemed, the amount you paid, less the administrative fee, will be refunded. If you pay the
34 required amount and the property is not redeemed, you will be substituted for the purchaser of
35 the tax lien and may proceed to obtain a deed for the property. If you do so and if one or more
36 additional surface owners or mineral owners do so, then the surface owners or mineral owners
37 must submit an agreement dividing the property per their proportionate shares. If an agreement
38 is not filed, the Deputy Commissioner shall refund the moneys tendered by the surface owners or
39 mineral owners, less the administrative fees, and the original purchaser will be returned to his or

40 her original rights and duties.

41 Given under my hand this _____ day of _____, 19 20_____.

42 _____ Deputy Commissioner of Delinquent and Nonentered Lands

43 _____ County,

44 State of West Virginia

45 _____ County,

46 State of West Virginia

47 The Deputy Commissioner for his or her service in preparing the notice shall receive a fee
48 of \$10 for the original and \$2 for each copy required. Any costs which must be expended in
49 addition thereto for publication, or service of such notice in the manner provided for serving
50 process commencing a civil action, or for service of process by certified mail, shall be charged by
51 the Deputy Commissioner. All costs provided by this section shall be included as redemption
52 costs and included in the notice described herein.

**§11A-3-56. Redemption from purchase; receipt; list of redemptions; lien; lien of person
redeeming interest of another; record.**

1 (a) After the sale of any tax lien on any real estate pursuant to §11A-3-45 or §11A-3-48 of
2 this code, the owner of, or any other person who was entitled to pay the taxes on, any real estate
3 for which a tax lien ~~thereon~~ was purchased by an individual, may redeem at any time before a tax
4 deed is issued ~~therefor~~. In order to redeem, he or she must pay to the deputy commissioner the
5 following amounts: (1) An amount equal to the taxes, interest and charges due on the date of the
6 sale, with interest ~~thereon~~ at the rate of one percent per month from the date of sale; (2) all other
7 taxes thereon, which have since been paid by the purchaser, his or her heirs or assigns, with
8 interest at the rate of one percent per month from the date of payment; (3) such additional
9 expenses as may have been incurred in preparing the list of those to be served with notice to
10 redeem, and any title examination incident thereto, with interest at the rate of one percent per
11 month from the date of payment, but the amount he or she shall be required to pay, excluding

12 said interest, for such expenses incurred for the preparation of the list of those to be served with
13 notice to redeem required by §11A-3-52 of this code, and any surface title examination ~~incident~~
14 ~~thereto~~ required shall not exceed ~~\$200~~ \$300 or \$600 for a required mineral title examination, and
15 if the real estate is subject to §11A-3-52(d) of this code, the reasonable cost for determining the
16 location of all tracts of surface property shown on the tax maps identified in §11-1C-7(e) of this
17 code that lie above the real estate subject to the tax lien or liens purchased; (4) all additional
18 statutory costs paid by the purchaser; and (5) the Deputy Commissioner's fee and commission
19 as provided by §11A-3-66 of this code. Where the Deputy Commissioner has not received from
20 the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, and
21 any examination of title incident thereto, in the form of receipts or other evidence ~~thereof~~, the
22 person redeeming shall pay the Deputy Commissioner the sum of \$200 plus interest ~~thereon~~ at
23 the rate of one percent per month from the date of the sale for disposition ~~pursuant to the~~
24 ~~provisions of~~ under §11A-3-57, §11A-3-58 , and §11A-3-64 of this code. Upon payment to the
25 Deputy Commissioner of those and any other unpaid statutory charges required by this article,
26 and of any unpaid expenses incurred by the sheriff, the Auditor and the Deputy Commissioner in
27 the exercise of their duties ~~pursuant to~~ under this article, the Deputy Commissioner shall prepare
28 an original and five copies of the receipt for the payment and shall note on said receipts that the
29 property has been redeemed. The original of such receipt shall be given to the person redeeming.
30 The Deputy Commissioner shall retain a copy of the receipt and forward one copy each to the
31 sheriff, assessor, the Auditor and the clerk of the county commission. The clerk shall endorse on
32 the receipt the fact and time of such filing and note the fact of redemption on his or her record of
33 delinquent lands.

34 (b) Any person who, by reason of the fact that no provision is made for partial redemption
35 of the tax lien on real estate purchased by an individual, is compelled in order to protect himself
36 or herself to redeem the tax lien on all of such real estate when it belongs, in whole or in part, to
37 some other person, shall have a lien on the interest of such other person for the amount paid to

38 redeem such interest. He or she shall lose his or her right to the lien, however, unless within thirty
39 days after payment he or she shall file with the clerk of the county commission his or her claim in
40 writing against the owner of such interest, together with the receipt provided ~~for~~ in this section.
41 The clerk shall docket the claim on the judgment lien docket in his or her office and properly index
42 the same. Such lien may be enforced as other judgment liens are enforced.

§11A-3-58a. Surface owner substitution for purchaser.

1 (a) If the real estate interest subject to a tax lien is a mineral interest, but does not include
2 an interest in the surface other than an interest for the purpose of developing the minerals, then
3 within thirty days after notices to redeem have been served, or an attempt of personal service has
4 been made, the notices have been mailed or, if necessary, published in accordance with
5 §11A-3-55 of this code, following the Deputy Commissioner's sale, a surface owner above the
6 mineral interest may pay to the Deputy Commissioner: (1) The amount that would be required for
7 redemption; (2) the lesser of either the amount identified for redemption or \$3,000; and (3) a
8 nonrefundable \$20 administrative fee. The Deputy Commissioner shall issue the surface owner
9 a certificate of substitution and send a copy to the purchaser. If more than one surface owner of
10 record submits payment to the Deputy Commissioner, the Deputy Commissioner shall issue each
11 a certificate of substitution and send copies of the certificates of substitution to the others in
12 addition to the purchaser.

13 (b) If the property is redeemed, the Deputy Commissioner shall refund the moneys paid
14 by the surface owners, less the administrative fees.

15 (c) If the property is not redeemed, and if only one surface owner has received a certificate
16 of substitution, then the Deputy Commissioner shall send the amount paid by the surface owner
17 to the purchaser and record the certificate of substitution. The surface owner is substituted and
18 has the full rights and duties of the purchaser.

19 (d) If more than one surface owner submits payment, before an additional fifteen days, the
20 surface owners must submit an agreement dividing the real estate according to their proportionate

21 share. The interest of an owner of a surface tract shall be equal to the acreage stated on
22 documents of record even if the owner only owns an undivided interest. However, if more than
23 one owner of an undivided interest submits payment, their proportionate shares are the total
24 acreage of the undivided tract divided by the number of owners of the tract who pay in. If no
25 agreement is filed, then the Deputy Commissioner shall refund their moneys, less the
26 administrative fees, and the original purchaser is returned to his or her original position. If an
27 agreement is filed, then the Deputy Commissioner shall make an amended certificate showing
28 the division according to their interests, the Deputy Commissioner shall send the purchaser twice
29 the amount required for redemption, and divide the remaining money paid by all surface owners
30 according to their agreed interests.

§11A-3-58b. Mineral owner substitution for purchaser.

1 (a) If the real estate interest subject to a tax lien is a surface tract, but does not include an
2 interest in the minerals, then within thirty days after notices to redeem have been served, or an
3 attempt of personal service has been made, the notices have been mailed or, if necessary,
4 published in accordance with §11A-3-55 of this code, following the Deputy Commissioner's sale,
5 a surface owner above the mineral interest may pay to the Deputy Commissioner: (1) The amount
6 that would be required for redemption; (2) the lesser of either the amount identified for redemption
7 or \$3,000; and (3) a nonrefundable \$20 administrative fee. The Deputy Commissioner shall issue
8 the mineral owner a certificate of substitution and send a copy to the purchaser. If more than one
9 mineral owner of record submits payment to the Deputy Commissioner, the Deputy Commissioner
10 shall issue each a certificate of substitution and send copies of the certificates of substitution to
11 the others in addition to the purchaser.

12 (b) If the property is redeemed, the Deputy Commissioner shall refund the moneys paid
13 by the mineral owners, less the administrative fees.

14 (c) If the property is not redeemed, and if only one mineral owner has received a certificate
15 of substitution, then the Deputy Commissioner shall send the amount paid by the surface owner

16 to the purchaser and record the certificate of substitution. The surface owner is substituted and
 17 has the full rights and duties of the purchaser.

18 (d) If more than one mineral owner submits payment, before an additional fifteen days, the
 19 mineral owners must submit an agreement dividing the real estate according to their proportionate
 20 share. The interest of an owner of a mineral tract shall be equal to the acreage stated on
 21 documents of record even if the owner only owns an undivided interest. However, if more than
 22 one owner of an undivided interest submits payment, their proportionate shares are the total
 23 acreage of the undivided tract divided by the number of owners of the tract who pay in. If no
 24 agreement is filed, then the Deputy Commissioner shall refund their moneys, less the
 25 administrative fees, and the original purchaser is returned to his or her original position. If an
 26 agreement is filed, then the Deputy Commissioner shall make an amended certificate showing
 27 the division according to their interests, the Deputy Commissioner shall send the purchaser twice
 28 the amount required for redemption, and divide the remaining money paid by all mineral owners
 29 according to their agreed interests.

ARTICLE 4. REMEDIES RELATING TO TAX SALES.

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

1 (a) If any person entitled to be notified under ~~the provisions of~~ §11A-3-22 or §11A-3-55 of
 2 this code is not served with the notice as therein required, and does not have actual knowledge
 3 that such notice has been given to others in time to protect his or her interests by redeeming the
 4 property, or in exercising rights as a surface owner under §11A-3-23a or §11A-3-58a of this code,
 5 or in exercising rights as a mineral owner under §11A-3-23a or §11A-3-58b of this code, he or
 6 she, his or her heirs and assigns, may, before the expiration of three years following the delivery
 7 of the deed, institute a civil action to set aside the deed. No deed shall be set aside under ~~the~~
 8 ~~provisions of~~ this section until payment has been made or tendered to the purchaser, or his or her
 9 heirs or assigns, of the amount which would have been required for redemption or in exercising
 10 rights as a surface owner under §11A-3-23a or §11A-3-58a of this code, or in exercising rights

11 as a mineral owner under §11A-3-23a or §11A-3-58b of this code, together with any taxes which
12 have been paid on the property since delivery of the deed, with interest at the rate of twelve
13 percent per annum.

14 (b) No title acquired ~~pursuant to~~ under this article shall be set aside in the absence of a
15 showing by clear and convincing evidence that the person who originally acquired such title failed
16 to exercise reasonably diligent efforts to provide notice of his or her intention to acquire such title
17 to the complaining party or his or her predecessors in title.

18 (c) Upon a preliminary finding by the court that the deed will be set aside ~~pursuant to~~ under
19 this section, such amounts shall be paid within one month of the entry ~~thereof~~. Upon the failure
20 to pay the same within said period ~~of time~~, the court shall upon the request of the purchaser, enter
21 judgment dismissing the action with prejudice.

NOTE: The purpose of this bill is to permit surface owners to purchase the mineral interests that lay below the property when the mineral interest becomes subject to a tax lien. The bill permits mineral owners to purchase the surface interest that lies above the mineral interest when the surface tract become subject to establishing procedures. The bill requires notice. The bill establishes the purchase prices. The bill establishes nonrefundable \$20 administrative fee. The bill provides a procedure if more than one surface owner seeks to purchase the delinquent mineral interest. The bill modifies notices to redeem that are sent to property owners. The bill provides remedies relating to tax sales.

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