

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 148**

BY SENATOR SYPOLT

[Originating in the Committee on Natural Resources;

Reported on February 21, 2018]

1 A BILL to amend and reenact §11A-3-19, §11A-3-21, §11A-3-52, §11A-3-54, §11A-3-56, and  
2 §11A-3-58 of the Code of West Virginia, 1931, as amended; and to amend said code by  
3 adding thereto four new sections, designated §11A-3-23a, §11A-3-23b, §11A-3-58a, and  
4 §11A-3-58b, all relating generally to the sale of delinquent surface and mineral properties;  
5 providing that a purchaser shall provide certain information to the State Auditor in order to  
6 secure a deed for the real estate subject to a tax lien purchased; providing that no deed  
7 to a bona fide purchaser for value from the purchaser or substituted purchaser may be set  
8 aside for purchaser's failure to provide such information; providing additional instructive  
9 language to be included in the notice to redeem; providing that the surface owner of the  
10 surface tract overlying the mineral property subject to the tax lien being sold may purchase  
11 that mineral property under certain circumstances; providing that, upon payment by the  
12 surface owner, the clerk or deputy commissioner, whichever applicable, shall issue a  
13 certificate of substitution to the substituted surface owner; providing that the clerk or  
14 deputy commissioner, whichever applicable, shall refund the money paid by the surface  
15 owner if the property is redeemed by the mineral owner or a person with a right to redeem;  
16 providing that the surface owner enjoys the full rights and duties of the purchaser if the  
17 owner or a person with a right to redeem does not redeem and only one surface owner  
18 receives a certificate of substitution; providing that surface owners shall submit an  
19 agreement dividing the mineral property if more than one surface owner pays the clerk or  
20 deputy commission, whichever applicable, the appropriate amount; providing that the  
21 original purchaser is returned to his or her original position if no agreement is filed;  
22 providing that the mineral owner of the mineral tract underlying the surface property  
23 subject to the tax lien being sold may purchase that surface property under certain  
24 circumstances; providing that, upon payment by the mineral owner, the clerk or deputy  
25 commissioner, whichever applicable, shall issue a certificate of substitution to the  
26 substituted mineral owner; providing that the clerk or deputy commissioner, whichever

27 applicable, shall refund the money paid by the mineral owner if the property is redeemed  
28 by the surface owner or a person with a right to redeem; providing that the mineral owner  
29 enjoys the full rights and duties of the purchaser if the owner or a person with a right to  
30 redeem does not redeem and only one mineral owner receives a certificate of substitution;  
31 providing that mineral owners shall submit an agreement dividing the surface property if  
32 more than one mineral owner pays the clerk or deputy commissioner, whichever  
33 applicable, the appropriate amount; providing that the original purchaser is returned to his  
34 or her original position if no agreement is filed; and raising the limit on recoupable  
35 expenses incurred in preparing notice to redeem, including title examination, to \$500.

*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 sections 21 and 22 of this article;

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;

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

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

19 (6) If the interest in real estate subject to the tax lien includes minerals, but not an interest  
20 in the surface, except an interest for the purpose of developing the minerals, the list shall include  
21 the last known name and mailing address of the taxpayer who receives a tax ticket for the surface  
22 tract that lie above the mineral tract subject to the tax lien;

23 (7) If the interest in real estate subject to the tax lien includes surface, but not an interest  
24 in the minerals, the list shall include the last known name and mailing address of the taxpayer  
25 who receives a tax ticket for the mineral property underlying the surface property subject to the  
26 tax lien; and

27 (8) If the purchaser fails to meet these requirements, he or she shall lose all the benefits  
28 of his or her purchase: *Provided*, That if, after reasonable good faith efforts, the purchaser or his  
29 or her heirs or assigns have not been able to determine to whom notice should be sent pursuant  
30 to §11A-3-19(a)(6) or §11A-3-19(a)(7) of this code, then he or she shall be deemed to have met  
31 the requirements of those provisions.

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

36 (c) Whenever any certificate given by the sheriff for a tax lien on any land, or interest in  
37 the land sold for delinquent taxes, or any assignment of the lien is lost or wrongfully withheld from  
38 the rightful owner of the land and the land or interest has not been redeemed, the county

39 commission may receive evidence of the loss or wrongful detention and, upon satisfactory proof  
40 of that fact, may cause a certificate of the proof and finding, properly attested by the State Auditor,  
41 to be delivered to the rightful claimant and a record of the certificate shall be duly made by the  
42 county clerk in the recorded proceedings of the commission.

43 (d) No deed to a subsequent bona fide purchaser for value from the purchaser, or an  
44 owner substituted for the purchaser, may be set aside for failure of the purchaser to comply with  
45 this section.

**§11A-3-21. Notice to redeem.**

1 (a) Whenever the provisions of section 19 of this article have 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 that was returned delinquent, or an owner of a mineral  
29 interest underlying a surface tract that was returned delinquent, you may pay the clerk the amount  
30 identified above, plus a nonrefundable \$20 administrative fee, before March 31, 20 \_\_\_\_\_. If you pay  
31 the amount identified above and the property is later redeemed by the owner or a person with a  
32 right to redeem, that amount you paid, less the administrative fee, will be refunded to you. If you  
33 pay the amount identified above and the property is not redeemed by the owner or a person with  
34 a right to redeem, you will be substituted for the purchaser of the tax lien and you may proceed  
35 to obtain a deed for the delinquent property. If you and one or more additional surface owners or  
36 mineral owners each pay the amount identified above, the surface owners or mineral owners who  
37 have made payment shall submit, by April 1, 20 \_\_\_\_\_, an agreement dividing the real estate  
38 according to your proportionate ownership or any other method or formula agreed to among all of  
39 you. If an agreement is not filed, the clerk shall refund the moneys tendered by the surface owners  
40 or mineral owners, less the administrative fees, and none of you will be substituted for the  
41 purchaser of the tax lien.

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

43 \_\_\_\_\_

44 State Auditor, State of West Virginia

45 (b) The State Auditor for his or her service in preparing the notice shall receive a fee of  
46 ~~\$10~~ \$50 for the original and \$2 for each copy required. Any additional costs which must be  
47 expended for publication, or service of the notice in the manner provided for serving process  
48 commencing a civil action, or for service of process by certified mail, shall be charged by the State  
49 Auditor. All costs provided by this section shall be included as redemption costs and included in  
50 the notice described in this section.

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

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

11 (b) If the property is redeemed by the owner or a person with a right to redeem, the clerk  
12 shall refund the moneys paid by the surface owner, less the administrative fees.

13 (c) If the property is not redeemed by the owner or a person with a right to redeem, and if  
14 only one surface owner has received a certificate of substitution, then the clerk shall send the  
15 amount paid by the surface owner to the purchaser, less the \$20 administrative fee, and record  
16 the certificate of substitution. That surface owner 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 of ownership in the overlying surface, or another mutually agreeable method or formula approved

20 by all of them, by April 1 of the year following the tax sale. No deed may be issued before April 1  
21 of the year following the tax sale. Unless otherwise provided by written agreement between the  
22 substituted surface owners, each surface owner's interest in the delinquent mineral property shall  
23 be equal to their pro rata share of surface acreage overlying the delinquent mineral property:  
24 *Provided, That if more than one owner of an undivided interest in the same tract pays the clerk*  
25 *the appropriate amount, his or her share shall be the total acreage of the undivided tract divided*  
26 *by the number of owners of the tract who have also paid the clerk: *Provided, however, That the**  
27 *clerk shall refund that portion of moneys which exceeds the amount required for substitution in*  
28 *subsection (a) of this section according to the substituted surface owners' proportionate interest*  
29 *in the delinquent mineral property. If an agreement is filed, then the clerk shall make an amended*  
30 *certificate dividing the property according to their respective interests and refund any remaining*  
31 *moneys paid by them according to their agreed interests. If no agreement is filed, the clerk shall*  
32 *refund the moneys paid by the surface owners, less the \$20 administrative fees, and the original*  
33 *purchaser is returned to his or her original position.*

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

1 (a) If the interest in real estate subject to the tax lien includes surface property, but not an  
2 interest in the underlying minerals, then prior to March 31 of the year following the sale, the owner  
3 of the mineral tract underlying the surface property subject to the tax lien being sold may pay the  
4 clerk: (1) The amount that would be required for redemption pursuant to section twenty-three of  
5 23 this article; (2) the lesser of either the amount required for redemption pursuant to section 23  
6 of this article or \$3,000; and (3) a nonrefundable \$20 administrative fee. Upon payment, the clerk  
7 shall issue the mineral owner a certificate of substitution and send a copy to the purchaser. If  
8 more than one mineral owner makes this payment to the clerk, the clerk shall issue each a  
9 certificate of substitution and send copies of the certificates of substitution to the other substituted  
10 mineral owners in addition to the purchaser.

11 (b) If the property is redeemed by the owner or a person with a right to redeem, the clerk



12 shall refund the moneys paid by the mineral owner, less the administrative fees.

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

17 (d) If more than one mineral owner pays the clerk the appropriate amount, the mineral  
18 owners shall submit an agreement dividing the surface property according to their proportionate  
19 shares of ownership in the underlying minerals, or another mutually agreeable method or formula  
20 approved by all of them, by April 1 of the year following the tax sale. No deed may be issued  
21 before April 1 of the year following the tax sale. Unless otherwise provided by written agreement  
22 between the substituted mineral owners, each mineral owner's interest in the delinquent surface  
23 property shall be equal to their pro rata share of mineral acreage underlying the delinquent surface  
24 property: *Provided*, That if more than one owner of an undivided interest in the same tract pays  
25 the clerk the appropriate amount, his or her share shall be the total acreage of the undivided tract  
26 divided by the number of owners of the tract who have also paid the clerk: *Provided, however*,  
27 That the clerk shall refund that portion of moneys which exceeds the amount required for  
28 substitution in subsection (a) of this section according to the substituted mineral owners'  
29 proportionate interest in the delinquent surface property. If an agreement is filed, then the clerk  
30 shall make an amended certificate dividing the property according to their respective interests  
31 and refund any remaining moneys paid by them according to their agreed interests. If no  
32 agreement is filed, the clerk shall refund the moneys paid by the mineral owners, less the \$20  
33 administrative fees, and the original purchaser is returned to his or her original position.

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

1 (a) Within 45 days following the approval of the sale by the Auditor pursuant to section 51  
2 of this article, the purchaser, his or her heirs or assigns, in order to secure a deed for the real  
3 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 sections 54 and 55 of this article;

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

9 (3) Deposit, or offer to deposit, with the deputy commissioner a sum sufficient to cover the  
10 costs of preparing and serving the notice;

11 (4) If the interest in real estate subject to the tax lien includes minerals, but not an interest  
12 in the surface, except an interest for the purpose of developing the minerals, the list shall include  
13 the last known name and mailing address of the taxpayer who receives a tax ticket for the surface  
14 tract that lie above the mineral tract subject to the tax lien; and

15 (5) If the interest in real estate subject to the tax lien includes surface, but not an interest  
16 in the minerals, the list shall include the last known name and mailing address of the taxpayer  
17 who receives a tax ticket for the mineral property underlying the surface property subject to the  
18 tax lien.

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

21 (c) After the requirements of ~~paragraph~~ subsection (a) of this section have been satisfied,  
22 the deputy commissioner may then sell the property in the same manner as he or she sells lands  
23 which have been offered for sale at public auction but which remain unsold after such auction, as  
24 provided in section 48 of this article.

25 (d) If the person requesting preparation and service of the notice is an assignee of the  
26 purchaser, he or she shall, at the time of the request, file with the deputy commissioner a written  
27 assignment to him or her of the purchaser's rights, executed, acknowledged and certified in the  
28 manner required to make a valid deed.

29 (e) No deed to a subsequent bona fide purchaser for value from the purchaser, or an

30 owner substituted for the purchaser, may be set aside for failure of the purchaser to comply with  
31 this section.

**§11A-3-54. Notice to redeem.**

1 Whenever the provisions of section 52 of this article have been complied with, the deputy  
2 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 have received this notice because you are the owner of an interest in the  
29 surface overlaying a mineral interest that was returned delinquent, or an owner of a mineral  
30 interest underlying a surface tract that was returned delinquent, you may pay the clerk the amount  
31 identified above, plus a nonrefundable \$20 administrative fee, before March 31, 20\_\_\_\_\_. If you pay  
32 the amount identified above and the property is later redeemed by the owner or a person with a  
33 right to redeem, that amount you paid, less the administrative fee, will be refunded to you. If you  
34 pay the amount identified above and the property is not redeemed by the owner or a person with  
35 a right to redeem, you will be substituted for the purchaser of the tax lien and you may proceed  
36 to obtain a deed for the delinquent property. If you and one or more additional surface owners or  
37 mineral owners each pay the amount identified above, the surface owners or mineral owners who  
38 have made payment shall submit, by April 1, 20\_\_\_\_, an agreement dividing the real estate  
39 according to your proportionate ownership or any other method or formula agreed to among all of  
40 you. If an agreement is not filed, the clerk shall refund the moneys tendered by the surface owners  
41 or mineral owners, less the administrative fees, and none of you will be substituted for the  
42 purchaser of the tax lien.

43 Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19 20\_\_\_\_\_.

44 \_\_\_\_\_ Deputy Commissioner of Delinquent and Nonentered Lands

45 \_\_\_\_\_ County,

46 State of West Virginia

47 \_\_\_\_\_ County,

48 State of West Virginia

49 The deputy commissioner for his or her service in preparing the notice shall receive a fee

50 of ~~\$10~~ \$50 for the original and \$2 for each copy required. Any costs which must be expended in  
51 addition thereto for publication, or service of such notice in the manner provided for serving  
52 process commencing a civil action, or for service of process by certified mail, shall be charged by  
53 the deputy commissioner. All costs provided by this section shall be included as redemption costs  
54 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 section 45 or 48 of this  
2 article, the owner of, or any other person who was entitled to pay the taxes on, any real estate for  
3 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 must pay to the deputy commissioner the following  
5 amounts: (1) An amount equal to the taxes, interest and charges due on the date of the sale, with  
6 interest thereon at the rate of one percent per month from the date of sale; (2) all other taxes  
7 thereon, which have since been paid by the purchaser, his heirs or assigns, with interest at the  
8 rate of one percent per month from the date of payment; (3) such reasonable additional expenses  
9 as may have been incurred in preparing the list of those to be served with notice to redeem, and  
10 any title examination incident thereto, with interest at the rate of one percent per month from the  
11 date of payment, but the amount he shall be required to pay, excluding said interest, for such  
12 expenses incurred for the preparation of the list of those to be served with notice to redeem  
13 required by section 52 of this article, and any title examination incident thereto, ~~shall not exceed~~  
14 ~~two hundred dollars~~; (4) all additional statutory costs paid by the purchaser; and (5) the deputy  
15 commissioner's fee and commission as provided by section 66 of this article. Where the deputy  
16 commissioner has not received from the purchaser satisfactory proof of the expenses incurred in  
17 preparing the notice to redeem, and any examination of title incident thereto, in the form of receipts  
18 or other evidence thereof, the person redeeming shall pay the deputy commissioner the sum of  
19 200 dollars plus interest thereon at the rate of one percent per month from the date of the sale for

20 disposition pursuant to the provisions of sections 57, 58 and 64 of this article. Upon payment to  
21 the deputy commissioner of those and any other unpaid statutory charges required by this article,  
22 and of any unpaid expenses incurred by the sheriff, the auditor and the deputy commissioner in  
23 the exercise of their duties pursuant to this article, ~~the deputy commissioner~~ shall prepare an  
24 original and five copies of the receipt for the payment and shall note on said receipts that the  
25 property has been redeemed. The original of such receipt shall be given to the person redeeming.  
26 The deputy commissioner shall retain a copy of the receipt and forward one copy each to the  
27 sheriff, assessor, the auditor, and the clerk of the county commission. The clerk shall endorse on  
28 the receipt the fact and time of such filing and note the fact of redemption on his record of  
29 delinquent lands.

30 (b) Any person who, by reason of the fact that no provision is made for partial redemption  
31 of the tax lien on real estate purchased by an individual, is compelled in order to protect himself  
32 to redeem the tax lien on all of such real estate when it belongs, in whole or in part, to some other  
33 person, shall have a lien on the interest of such other person for the amount paid to redeem such  
34 interest. He shall lose his right to the lien, however, unless within 30 days after payment he shall  
35 file with the clerk of the county commission his claim in writing against the owner of such interest,  
36 together with the receipt provided for in this section. The clerk shall docket the claim on the  
37 judgment lien docket in his office and properly index the same. Such lien may be enforced as  
38 other judgment liens are enforced.

**§11A-3-58. Distribution to purchaser.**

39 (a) Where the land has been redeemed in the manner set forth in §11A-3-56 of this code,  
40 and the deputy commissioner has delivered the redemption money to the sheriff pursuant to  
41 §11A-3-57 of this code, the sheriff shall, upon delivery of the sum necessary to redeem, promptly  
42 notify the purchaser, his or her heirs or assigns, by mail, of the redemption and pay to the  
43 purchaser, his or her heirs or assigns, the following amounts: (1) The amount paid to the deputy  
44 commissioner at the sale; (2) all other taxes thereon, which have since been paid by the

45 purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the  
46 date of payment; (3) such additional expenses as may have been incurred in preparing the list of  
47 those to be served with notice to redeem, and any title examination incident thereto, with interest  
48 at the rate of one percent per month from the date of payment, but the amount which shall be  
49 paid, excluding said interest, for such expenses incurred for the preparation of the list of those to  
50 be served with notice to redeem required by §11A-3-52 of this code, and any title examination  
51 incident thereto, shall not exceed ~~\$200~~ \$500; and (4) all additional statutory costs paid by the  
52 purchaser.

53 (b) (1) The notice shall include:

54 (A) A copy of the redemption certificate issued by the deputy commissioner;

55 (B) An itemized statement of the redemption money to which the purchaser is entitled  
56 pursuant to the provisions of this section; and

57 (C) Where, at the time of the redemption, the deputy commissioner has not received from  
58 the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served  
59 with notice to redeem and any title examination incident thereto, the deputy commissioner shall  
60 also include instructions to the purchaser as to how these expenses may be claimed.

61 (2) Subject to the limitations of this section, the purchaser is entitled to recover any  
62 expenses incurred in preparing the list of those to be served with notice to redeem and any title  
63 examination incident thereto from the date of the sale to the date of the redemption.

64 (c) Where, pursuant to §11A-3-56 of this code, the deputy commissioner has not received  
65 from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem,  
66 and any title examination incident thereto, in the form of receipts or other evidence thereof, and  
67 therefore received from the purchaser as required by §11A-3-56 of this code and delivered to the  
68 sheriff the sum of ~~\$200~~ \$500, plus interest thereon at the rate of one percent per month from the  
69 date of the sale to the date of redemption, and the sheriff has not received from the purchaser  
70 such satisfactory proof of such expenses within 30 days from the date of notification, the sheriff

71 shall refund such amount to the person redeeming and the purchaser is barred from any claim  
72 thereto. Where, pursuant to §11A-3-56 of this code, the deputy commissioner has received from  
73 the purchaser and therefore delivered to the sheriff said sum of ~~\$200~~ \$500, plus interest thereon  
74 at the rate of one percent per month from the date of the sale to the date of redemption, and the  
75 purchaser provides the sheriff within 30 days from the date of notification such satisfactory proof  
76 of such expenses, and the amount of such expenses is less than the amount paid by the person  
77 redeeming, the sheriff shall refund the difference to the person redeeming.

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

1 (a) If the interest in real estate subject to the tax lien includes minerals, but not an interest  
2 in the surface, except an interest for the purpose of developing the minerals, then within 30 days  
3 after notices to redeem have been served, or an attempt of personal service has been made, the  
4 notices have been mailed or, if necessary, published in accordance with section 55 of this article,  
5 following the deputy commissioner's sale, a surface owner whose surface lies above the  
6 delinquent mineral property may pay to the deputy commissioner: (1) The amount that would be  
7 required for redemption pursuant to section 23 of this article; (2) the lesser of either the amount  
8 required for redemption pursuant to section 23 of this article or \$3,000; and (3) a nonrefundable  
9 \$20 administrative fee. Upon payment, the deputy commissioner shall issue the surface owner a  
10 certificate of substitution and send a copy to the purchaser. If more than one surface owner makes  
11 this payment to the deputy commissioner, the deputy commissioner shall issue each a certificate  
12 of substitution and send copies of the certificates of substitution to the other substituted surface  
13 owners in addition to the purchaser.

14 (b) If the property is redeemed by the owner or a person with a right to redeem, the deputy  
15 commissioner shall refund the moneys paid by the surface owner, less the administrative fees.

16 (c) If the property is not redeemed by the owner or a person with a right to redeem, and if  
17 only one surface owner has received a certificate of substitution, then the deputy commissioner  
18 shall send the amount paid by the surface owner to the purchaser, less the \$20 administrative



19 fee, and record the certificate of substitution. That surface owner enjoys the full rights and duties  
20 of the purchaser.

21 (d) If more than one surface owner pays the deputy commissioner the appropriate amount,  
22 the surface owners shall submit an agreement dividing the property according to their  
23 proportionate shares of ownership in the overlying surface, or another mutually agreeable method  
24 or formula approved by all of them, by April 1 of the year following the tax sale. No deed may be  
25 issued before April 1 of the year following the tax sale. Unless otherwise provided by written  
26 agreement between the substituted surface owners, each surface owner's interest in the  
27 delinquent mineral property shall be equal to their pro rata share of surface acreage overlying the  
28 delinquent mineral property: *Provided*, That if more than one owner of an undivided interest in the  
29 same tract pays the deputy commissioner the appropriate amount, his or her share shall be the  
30 total acreage of the undivided tract divided by the number of owners of the tract who have also  
31 paid the deputy commissioner: *Provided, however*, That the deputy commissioner shall refund  
32 that portion of moneys which exceeds the amount required for substitution in subsection (a) of  
33 this section according to the substituted surface owners' proportionate interest in the delinquent  
34 mineral property. If an agreement is filed, then the deputy commissioner shall make an amended  
35 certificate dividing the property according to their respective interests and refund any remaining  
36 moneys paid by them according to their agreed interests. If no agreement is filed, the deputy  
37 commissioner shall refund the moneys paid by the surface owners, less the \$20 administrative  
38 fees, and the original purchaser is returned to his or her original position.

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

1 (a) If the interest in real estate subject to the tax lien includes surface property, but not an  
2 interest in the underlying minerals, then within 30 days after notices to redeem have been served,  
3 or an attempt of personal service has been made, the notices have been mailed or, if necessary,  
4 published in accordance with section 55 of this article, following the deputy commissioner's sale,  
5 a mineral owner whose mineral property underlays the delinquent surface property may pay to

6 the deputy commissioner: (1) The amount that would be required for redemption pursuant to  
7 section 23 of this article; (2) the lesser of either the amount required for redemption pursuant to  
8 section twenty-three of this article or \$3,000; and (3) a nonrefundable \$20 administrative fee.  
9 Upon payment, the deputy commissioner shall issue the mineral owner a certificate of substitution  
10 and send a copy to the purchaser. If more than one mineral owner makes this payment to the  
11 deputy commissioner, the deputy commissioner shall issue each a certificate of substitution and  
12 send copies of the certificates of substitution to the other substituted mineral owners in addition  
13 to the purchaser.

14 (b) If the property is redeemed by the owner or a person with a right to redeem, the deputy  
15 commissioner shall refund the moneys paid by the mineral owner, less the administrative fees.

16 (c) If the property is not redeemed by the owner or a person with a right to redeem, and if  
17 only one mineral owner has received a certificate of substitution, then the deputy commissioner  
18 shall send the amount paid by the mineral owner to the purchaser, less the \$20 administrative  
19 fee, and record the certificate of substitution. That substituted mineral owner enjoys the full rights  
20 and duties of the purchaser.

21 (d) If more than one mineral owner pays the deputy commissioner the appropriate amount,  
22 the mineral owners shall submit an agreement dividing the surface property according to their  
23 proportionate shares of ownership in the underlying mineral property, or another mutually  
24 agreeable method or formula approved by all of them, by April 1 of the year following the tax sale.  
25 No deed may be issued before April 1 of the year following the tax sale. Unless otherwise provided  
26 by written agreement between the substituted mineral owners, each mineral owner's interest in  
27 the delinquent surface property shall be equal to their pro rata share of mineral acreage underlying  
28 the delinquent surface property: *Provided*, That if more than one owner of an undivided interest  
29 in the same tract pays the deputy commissioner the appropriate amount, his or her share shall be  
30 the total acreage of the undivided tract divided by the number of owners of the tract who have  
31 also paid the deputy commissioner: *Provided, however*, That the deputy commissioner shall

32 refund that portion of moneys which exceeds the amount required for substitution in subsection  
33 (a) of this section according to the substituted mineral owners' proportionate interest in the  
34 delinquent surface property. If an agreement is filed, then the deputy commissioner shall make  
35 an amended certificate dividing the property according to their respective interests and refund any  
36 remaining moneys paid by them according to their agreed interests. If no agreement is filed, the  
37 deputy commissioner shall refund the moneys paid by the mineral owners, less the \$20  
38 administrative fees, and the original purchaser is returned to his or her original position.