

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 275

BY SENATORS SYPOLT, CLEMENTS, BALDWIN, BOSO,

MARONEY, AND SMITH

[Introduced January 11, 2019; Referred

to the Committee on Energy, Industry and Mining; and then

to the Committee on the Judiciary]

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 commissioner, 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 §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;

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 considered to have
31 met 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 §11A-3- 19 of this code have been complied with, the State
2 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~~ the real estate will be made to him or her on or after April
13 1, 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 §11A-3- 23 of this code; (2) the lesser of either the amount
6 required for redemption pursuant to §11A-3- 23 of this code 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 23 of this article;
5 (2) the lesser of either the amount required for redemption pursuant to §11A-3- 23 of this code or
6 \$3,000; and (3) a nonrefundable \$20 administrative fee. Upon payment, the clerk shall issue the
7 mineral owner a certificate of substitution and send a copy to the purchaser. If more than one
8 mineral owner makes this payment to the clerk, the clerk shall issue each a certificate of
9 substitution and send copies of the certificates of substitution to the other substituted mineral
10 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 §11A-3-
 2 51 of this code, 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 §11A-3- 54 and §11A-3- 55 of this
6 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 to
9 the tax lien or liens purchased; ~~and~~

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

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

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

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

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

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

30 (e) No deed to a subsequent bona fide purchaser for value from the purchaser, or an
 31 owner substituted for the purchaser, may be set aside for failure of the purchaser to comply with
 32 this section.

§11A-3-54. Notice to redeem.

1 Whenever the provisions of §11A-3- 52 of this code 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 the real estate will be made to him or her on or after the _____ day of _____, ~~19~~
 14 20____, as provided by law, unless before that day you redeem ~~such~~ the real estate. The amount
 15 you will have to pay to redeem on the _____ day of _____, ~~19~~ 20____, will be
 16 as follows:

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

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

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

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

26 Total \$ _____

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

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

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

45 _____ Deputy Commissioner of Delinquent and Nonentered Lands

46 _____ County,

47 State of West Virginia

48 _____ County,

49 State of West Virginia

50 The deputy commissioner for his or her service in preparing the notice shall receive a fee
51 of ~~\$10~~ \$50 for the original and \$2 for each copy required. Any costs which must be expended in
52 addition thereto for publication, or service of ~~such~~ the notice in the manner provided for serving
53 process commencing a civil action, or for service of process by certified mail, shall be charged by
54 the deputy commissioner. All costs provided by this section shall be included as redemption costs
55 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
2 of this code, the owner of, or any other person who was entitled to pay the taxes on, any real
3 estate for which a tax lien thereon was purchased by an individual, may redeem at any time before
4 a tax deed is issued therefor. In order to redeem, he 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 heirs or assigns, with interest at
8 the rate of one percent per month from the date of payment; (3) such reasonable 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 shall be required to pay, excluding ~~said~~
12 interest, for ~~such~~ the 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 title examination incident thereto,
14 ~~shall not exceed two hundred dollars~~; (4) all additional statutory costs paid by the purchaser; and
15 (5) the deputy commissioner's fee and commission as provided by §11A-3-66 of this code. Where
16 the deputy commissioner has not received from the purchaser satisfactory proof of the expenses
17 incurred in preparing the notice to redeem, and any examination of title incident thereto, in the

18 form of receipts or other evidence thereof, the person redeeming shall pay the deputy
19 commissioner the sum of 200 dollars plus interest thereon at the rate of one percent per month
20 from the date of the sale for disposition pursuant to the provisions of §11A-3- 57, §11A-3- 58 and
21 §11A-3- 64 of this code. Upon payment to the deputy commissioner of those and any other unpaid
22 statutory charges required by this article, and of any unpaid expenses incurred by the sheriff, the
23 auditor and the deputy commissioner in the exercise of their duties pursuant to this article, ~~the~~
24 ~~deputy commissioner~~ shall prepare an original and five copies of the receipt for the payment and
25 shall note on ~~said~~ the receipts that the property has been redeemed. The original of such receipt
26 shall be given to the person redeeming. The deputy commissioner shall retain a copy of the receipt
27 and forward one copy each to the sheriff, assessor, the auditor, and the clerk of the county
28 commission. The clerk shall endorse on the receipt the fact and time of such filing and note the
29 fact of redemption on his record of 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 the interest. He shall lose his right to the lien, however, unless within 30 days after payment he
35 shall file with the clerk of the county commission his claim in writing against the owner of ~~such~~ the
36 interest, together with the receipt provided for in this section. The clerk shall docket the claim on
37 the judgment lien docket in his office and properly index the same. ~~Such~~ The lien may be enforced
38 as other judgment liens are enforced.

§11A-3-58. Distribution to purchaser.

1 (a) Where the land has been redeemed in the manner set forth in §11A-3-56 of this code,
2 and the deputy commissioner has delivered the redemption money to the sheriff pursuant to
3 §11A-3-57 of this code, the sheriff shall, upon delivery of the sum necessary to redeem, promptly
4 notify the purchaser, his or her heirs or assigns, by mail, of the redemption and pay to the

5 purchaser, his or her heirs or assigns, the following amounts: (1) The amount paid to the deputy
6 commissioner at the sale; (2) all other taxes thereon, which have since been paid by the
7 purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the
8 date of payment; (3) such additional expenses as may have been incurred in preparing the list of
9 those to be served with notice to redeem, and any title examination incident thereto, with interest
10 at the rate of one percent per month from the date of payment, but the amount which shall be
11 paid, excluding said the interest, for ~~such~~ the expenses incurred for the preparation of the list of
12 those to be served with notice to redeem required by §11A-3-52 of this code, and any title
13 examination incident thereto, shall not exceed ~~\$200~~ \$500; and (4) all additional statutory costs
14 paid by the purchaser.

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

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

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

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

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

26 (c) Where, pursuant to §11A-3-56 of this code, the deputy commissioner has not received
27 from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem,
28 and any title examination incident thereto, in the form of receipts or other evidence thereof, and
29 therefore received from the purchaser as required by §11A-3-56 of this code and delivered to the
30 sheriff the sum of ~~\$200~~ \$500, plus interest thereon at the rate of one percent per month from the

31 date of the sale to the date of redemption, and the sheriff has not received from the purchaser
32 such satisfactory proof of ~~such~~ the expenses within 30 days from the date of notification, the
33 sheriff shall refund ~~such~~ that amount to the person redeeming and the purchaser is barred from
34 any claim thereto. Where, pursuant to §11A-3-56 of this code, the deputy commissioner has
35 received from the purchaser and therefore delivered to the sheriff ~~said~~ the sum of ~~\$200~~ \$500, plus
36 interest thereon at the rate of one percent per month from the date of the sale to the date of
37 redemption, and the purchaser provides the sheriff within 30 days from the date of notification
38 such satisfactory proof of ~~such~~ the expenses, and the amount of ~~such~~ the expenses is less than
39 the amount paid by the person redeeming, the sheriff shall refund the difference to the person
40 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 §11A-3- 55 of this code,
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 §11A-3- 23 of this code; (2) the lesser of either the amount
8 required for redemption pursuant to §11A-3- 23 of this code 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 §11A-3- 55 of this code, 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 §11A-3- 23 of this code; (2) the lesser of either the amount required for redemption pursuant to
8 section 23 of this article or \$3,000; and (3) a nonrefundable \$20 administrative fee. Upon payment,
9 the deputy commissioner shall issue the mineral owner a certificate of substitution and send a
10 copy to the purchaser. If more than one mineral owner makes this payment to the deputy
11 commissioner, the deputy commissioner shall issue each a certificate of substitution and send
12 copies of the certificates of substitution to the other substituted mineral owners in addition to the
13 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.

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.