

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2986

BY DELEGATE SKAFF

[Introduced March 08, 2021; Referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §11A-3-19a, relating to establishing an alternative method for qualified
3 persons to properties sold by tax sales; providing that the State Auditor promulgate
4 necessary forms; providing the State Auditor to authorize purchasers experienced in tax
5 sales and tax sales legal requirements to provide notice to delinquent taxpayers;
6 establishing criteria for purchasers eligibility; providing for the State Auditor to maintain a
7 roster of eligible purchasers; providing guidelines for these purchasers to provide notice
8 to delinquent tax payers; providing information to be provided to the State Auditor relating
9 to the property subject to the tax sale; providing contents to a document to be executed
10 regarding the actions taken by the purchaser as affirmed by the purchaser; providing
11 notice to owners to be the same as done in civil actions; providing how notice is perfected;
12 providing for a fee to be paid to the State Auditor; and providing that failure of a purchaser
13 to meet statutory requirements results in loss of the benefits of the purchase.

14 Be it enacted by the Legislature of West Virginia:

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

§11A-3-19a. Alternative method for certain purchasers to acquire deed.

1 (a) Prior to July 1 of the year following the sheriff's sale, a purchaser with the wherewithal
2 to do so may apply to the State Auditor for permission to independently accomplish certain
3 services of notices of the right to redeem upon all persons entitled to be so served prior to the
4 State Auditor tendering a deed to the purchaser. The State Auditor shall promulgate a form
5 application designed to secure information from a purchaser so applying, adequate to enable the
6 State Auditor to determine whether the purchaser has in the past engaged in a number of sheriff
7 sale tax lien purchases sufficient to provide the purchaser with a knowledge of the legal
8 requirements of providing those notices to delinquent taxpayers of the pending actions against

9 their property interests, the general process of accomplishing the tasks associated with gathering
10 information from public sources as to determining the identity and location of all persons entitled
11 to notice of the right to redeem and an ability to employ appropriate third-party resources when
12 necessary to trace, locate and physically tender to the persons so entitled to the pertinent notices
13 of the right to redeem. The form application shall further be designed to elicit information
14 necessary to allow the State Auditor to determine whether the purchaser so applying has sufficient
15 wherewithal to independently perform these functions for the service of tax liens or to contract
16 with third parties to assist them in doing so. Any purchaser demonstrating in his or her responses
17 upon the application form a history of past tax sale lien purchases within the state of West Virginia
18 of in excess of 100 tax-sale lien certificates within the previous 10-year period or the current
19 ownership of tax sale lien certificates within the state of in excess of 50 shall be presumed by the
20 State Auditor to have sufficient knowledge, ability and wherewithal to opt for the alternative
21 method for accomplishing service of notices of claim provided in this section.

22 (b) The State Auditor shall further solicit information through the application form
23 identifying the current location of the place of business of the purchaser, his or her current
24 telephone number and, in the case of a corporate or other nonperson entity, the current contact
25 person designated by the entity for conducting communications with the State Auditor.

26 (c) The State Auditor shall accept for approval new applications for permission to provide
27 the notices of claim pursuant to this alternative method by the August 1 immediately following the
28 purchaser's application for that permission. Purchasers shall remain on the State Auditor's roster
29 of approved independent providers of the notices of claim from year to year as long they remain
30 active tax-lien purchasers, unless and until they are duly removed. The State Auditor shall remove
31 any purchaser from the roster who has demonstrated a lack of ability and commitment to make
32 all reasonable efforts to accomplish service of notices of claim to all persons entitled thereto.

33 (d) At any time after August 31 of the year following the sheriff's sale, and on or before
34 October 31 of the same year, the purchaser, his or her heirs or assigns, in order to secure a deed

35 for the real estate subject to the tax lien or liens purchased, shall:

36 (1) Prepare a list of those to be served with notice to redeem as provided in §11A-3-21
37 and §11A-3-22 of this code;

38 (2) When the real property subject to the tax lien is classified as Class II property, clearly
39 designate on the list the physical mailing address of the property that is subject to the tax lien or
40 liens purchased;

41 (3) Specify all additional expenses incurred after January 1 of the year following the
42 sheriff's sale for the preparation of the list of those to be served with notice to redeem, including
43 proof of the additional expenses in the form of receipts or other evidence of reasonable legal
44 expenses incurred for the services of any attorney who has performed an examination of the title
45 to the real estate and rendered written documentation used in the preparation of the list of those
46 to be served with the notice to redeem;

47 (4) Calculate the sum sufficient to cover the costs of preparing and serving the notice;

48 (5) Incorporate the information recited above into a proposed notice of right to redeem in
49 the form specified in subsection (e) below; and

50 (6) Present a copy of the purchaser's certificate of sale with the list of persons to be
51 served, the addresses of those persons, the expenses incurred for the preparation of the list or
52 lists and the costs of the service of the notice to the State Auditor for filing in his or her office.

53 (e) Upon the purchaser's completion of the requirements of the provisions of subsection
54 (d) of this section, the purchaser shall complete and present for the execution by the State Auditor
55 a notice in form or effect as follows:

56 To _____.

57 You will take notice that _____, the purchaser (or _____, the
58 assignee, heir or devisee of _____, the purchaser) of the tax lien(s) on the following
59 real estate, _____, (here describe the real estate for which the tax lien(s) thereon
60 were sold) located in _____, (here name the city, town or village in which the

61 real estate is situated or, if not within a city, town or village, give the district and a general
 62 description) which was returned delinquent in the name of _____, and for which the
 63 tax lien(s) thereon was sold by the sheriff of _____ County at the sale for
 64 delinquent taxes made on the _____ day of _____, 20, has requested that you
 65 be notified that a deed for such real estate will be made to him or her on or after April 1, 20 _____,
 66 as provided by law, unless before that day you redeem such real estate. The amount you will
 67 have to pay to redeem on the last day, March 31, will be as follows:

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

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

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

75 Amount paid for other statutory costs (describe) _____
 76 \$ _____

77 Total \$ _____

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

80 Given under my hand this _____ day of _____, 20 _____.

81 _____

82 State Auditor, State of West Virginia

83 The State Auditor within 10 days of the purchaser's presentation of the notice shall
 84 execute and deliver the notice to the purchaser.

85 (f) After the approval, execution and return to the purchaser of the right to redeem by the
 86 State Auditor, the purchaser shall cause it to be served upon all persons named on the list

87 generated by the purchaser pursuant to the provisions of subsection (d) of this section, as follows:

88 (1) The notice shall be served upon all persons residing or found in the state in the manner
89 provided for serving process commencing a civil action, or by certified mail, return receipt
90 requested, or other types of delivery service courier that provide a receipt; and

91 (2) The notice shall be served upon persons not residing or found in the state by certified
92 mail, return receipt requested, or in the manner provided for serving process commencing a civil
93 action, or other types of delivery service courier that provide a receipt.

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

98 (h) The State Auditor shall receive a fee of \$10 for the original and \$2 for each copy
99 obtained by the sheriff-sale purchaser. Any additional costs which must be expended for
100 publication, or service of the notice in the manner provided for serving process commencing a
101 civil action, or for service of process by certified mail, shall be memorialized by the sheriff sale
102 purchaser and that memorialization shall be tendered to the State Auditor with summary
103 supporting documentation of those costs. All costs provided by this section shall be included as
104 redemption costs and included in the notice described in this section.

105 (i) If the purchaser fails to meet these requirements, he or she shall lose all the benefits of
106 his or her purchase.

NOTE: The purpose of this bill is to establish a method for allowing certain sheriff-sale lien purchasers to independently accomplish service of the right to redeem upon the taxpayers without relying upon the West Virginia Auditor to do so.

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