

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 72

BY SENATORS RUCKER AND PLYMALE

[Introduced February 10, 2021; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §11A-3-2 of the Code of West Virginia, 1931, as amended, relating
 2 to requiring the sheriff to send notices to the owners of record and to each resident or
 3 occupant of real property prior to selling the property for which property taxes have not
 4 been paid.

Be it enacted by the Legislature of West Virginia:

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

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

1 (a) On or before September 10, of each year, the sheriff shall prepare a second list of
 2 delinquent lands, which shall include all real estate in his or her county remaining delinquent as
 3 of September 1, together with a notice of sale, in form or effect as follows:

4 Notice is hereby given that tax liens for the following described tracts or lots of land or
 5 undivided interests therein in the County of _____ which are delinquent for the
 6 nonpayment of taxes for the year (or years) 20____, will be offered for sale by the undersigned
 7 sheriff (or collector) at public auction at the front door of the courthouse of the county, between
 8 the hours of nine in the morning and four in the afternoon, on the ____ day of
 9 _____, 20____.

10 Tax liens on each unredeemed tract or lot, or each unredeemed part thereof or undivided
 11 interest therein, will be sold at public auction to the highest bidder in an amount which shall not
 12 be less than the taxes, interest and charges which shall be due thereon to the date of sale, as set
 13 forth in the following table:

Name of person charged with taxes	Quantity of land	Local description	Total amount of taxes, interest and charges due to date
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			of sale

14 Any of the aforesaid tracts or lots, or part thereof or an undivided interest therein, may be
 15 redeemed by the payment to the undersigned sheriff (or collector) before sale, of the total amount
 16 of taxes, interest and charges due thereon up to the date of redemption. Payment received within
 17 14 business days prior to the date of sale must be paid by cashier check, money order, certified
 18 check or United States currency. Payment must be received in the tax office by the close of
 19 business on the last business day prior to the sale.

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

23 Sheriff (or collector).

24 The sheriff shall publish the list and notice prior to the sale date fixed in the notice as a
 25 Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code,
 26 and the publication area for such publication shall be is the county.

27 (b) In addition to such publication, no less than 30 days prior to the sale, the sheriff shall
 28 send a notice of the delinquency and the date of sale by certified mail: (1) To the last known
 29 address of each person listed in the land books whose taxes are delinquent; (2) to each person
 30 having a lien on real property upon which the taxes are due as disclosed by a statement filed with
 31 the sheriff pursuant to the provisions of section three of this article; (3) to each other person with
 32 an interest in the property or with a fiduciary relationship to a person with an interest in the property
 33 who has in writing delivered to the sheriff on a form prescribed by the Tax Commissioner a request
 34 for such notice of delinquency; ~~and~~ (4) if not sent pursuant to the preceding clauses, to each
 35 owner of record of the property; (5) if not sent pursuant to the preceding clauses, to each resident
 36 or occupant of the property; and (6) in the case of property which includes a mineral interest but

37 does not include an interest in the surface other than an interest for the purpose of developing
38 the minerals, to each person who has in writing delivered to the sheriff, on a form prescribed by
39 the Tax Commissioner, a request for such notice which identifies the person as an owner of an
40 interest in the surface of real property that is included in the boundaries of such property:
41 *Provided*, That in a case where one owner owns more than one parcel of real property upon which
42 taxes are delinquent, the sheriff may, at his or her option, mail separate notices to the owner and
43 each lienholder for each parcel or may prepare and mail to the owner and each lienholder a single
44 notice which pertains to all such delinquent parcels. If the sheriff elects to mail only one notice,
45 that notice shall set forth a legally sufficient description of all parcels of property on which taxes
46 are delinquent. In no event shall failure to receive the mailed notice by the landowner or lienholder
47 affect the validity of the title of the property conveyed if it is conveyed pursuant to §11A-3-27 or
48 §11A-3-59 of this code.

49 (c)(1) To cover the cost of preparing and publishing the second delinquent list, a charge
50 of \$25 shall be added to the taxes, interest and charges already due on each item and all such
51 charges shall be stated in the list as a part of the total amount due.

52 (2) To cover the cost of preparing and mailing notice to the landowner, lienholder or any
53 other person entitled thereto pursuant to this section, a charge of \$10 per addressee shall be
54 added to the taxes, interest and charges already due on each item and ~~all such~~ these charges
55 shall be stated in the list as a part of the total amount due.

56 (d) Any person whose taxes were delinquent on September 1, may have his or her name
57 removed from the delinquent list prior to the time the ~~same~~ list is delivered to the newspapers for
58 publication by paying to the sheriff the full amount of taxes and costs owed by the person at the
59 date of such redemption. In ~~such~~ that case, the sheriff shall include but \$3 of the costs provided
60 in this section in making such redemption. Costs collected by the sheriff hereunder which are not
61 expended for publication and mailing shall be paid into the General County Fund.

NOTE: The purpose of this bill is to require the sheriff to send notices to the owners of record and to each resident or occupant of real property prior to selling the property for which property taxes have not been paid.

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