WEST virginia legislature

2022 regular session

Enrolled

Committee Substitute

for

Senate Bill 552

By Senators Blair (Mr. President) and Baldwin
[By Request of the Executive]

[Passed March 12, 2022; in effect 90 days from passage]

AN ACT to repeal §11A-2-18 of the Code of West Virginia, 1931, as amended; to repeal §11A-3-5, §11A-3-5a, §11A-3-5b, §11A-3-6, §11A-3-7, §11A-3-14, §11A-3-15, §11A-3-16, §11A-3-17, §11A-3-18, §11A-3-19, §11A-3-20, §11A-3-21, §11A-3-22, §11A-3-23, §11A-3-24, §11A-3-25, §11A-3-26, §11A-3-27, §11A-3-28, §11A-3-29, §11A-3-30, and §11A-3-31 of said code; to amend and reenact §11A-1-8 of said code; to amend and reenact §11A-2-14 of said code; to amend and reenact §11A-3-1, §11A-3-2, §11A-3-4, §11A-3-8, §11A-3-9, §11A-3-10, §11A-3-11, §11A-3-12, §11A-3-13, §11A-3-32, §11A-3-39 §11A-3-42, §11A-3-44, §11A-3-45, §11A-3-46, §11A-3-48, §11A-3-50, §11A-3-52, §11A-3-53, §11A-3-54, §11A-3-55, §11A-3-56, §11A-3-66, and §11A-3-69 of said code; to amend and reenact §11A-4-3 and §11A-4-4 of said code; to amend and reenact §16-18-3 of said code; to amend and reenact §22-15A-30 of said code; to amend and reenact §31-18E-9 of said code; and to amend and reenact §31-21-11 of said code, all relating to delinquent and dilapidated property and the process for the collection of delinquent real estate taxes and sales of tax liens and property; modifying the method by which notice is provided regarding the payment of property taxes; requiring a sheriff to accept credit cards as a form of payment for property taxes; allowing a sheriff to offer discounts on tax liability to taxpayers that pay with a credit card; modifying the deadline by which a sheriff must present delinquent lists to its county commission; modifying the deadline that a county commission certifies a delinquent list to the auditor; modifying the form of certain notice provided by the sheriff regarding delinquent taxes; repealing provisions related to the annual sheriff’s sale; modifying provisions related to the annual sheriff’s sale to be related to certification to the Auditor; providing that a sheriff provide a redemption receipt if property is redeemed prior to certification to the auditor; directing a portion of the redemption fee to the Courthouse Facilities Improvement Fund; modifying the policy related to the sale of tax liens; modifying the process by which a sheriff provides its second notice of delinquent real estate; modifying the timing and payment of redemption for delinquent properties prior to certification to the auditor; modifying dates for auditor to certify list of lands to be sold; providing any property not redeemed to the sheriff is to be certified to the auditor; providing that the sheriff prepare a list of all the tax liens on delinquent real estate redeemed prior to certification or certified to the auditor; providing that the sheriff account for the proceeds from redemptions prior to certification; providing a sheriff may modify its redemption and certification list within 30 days after the publication of such list; providing for the publication of such list; requiring sheriffs keep separate accounts for redemption moneys; modifying the deposit and disposition of certain funds; modifying certain fees related to redemption; identifying lands subject to sale by the deputy commissioner; relating to the obligation that the auditor certify and deliver a list of lands subject to sale by the deputy commissioner; addressing annual auctions held by the deputy commissioner and the publication of notice of public auctions held by the deputy commissioner; relating to auditor’s sale of delinquent and non-entered land; relating to moving certain obligations from the deputy commissioner to the auditor; relating to the requirements that a purchaser must satisfy before he or she can secure a deed; relating to the sale of certain delinquent lands subject to sale and certain entities right of first refusal therein; relating to the receipt to purchaser for purchase price at auditor’s sale; relating to the purchaser’s obligation to secure deed to delinquent property; relating to refund to purchaser for property determined to be nonexistent; relating to the notice to redeem provided to a person entitled to redeem delinquent property; relating to redemption of delinquent property; modifying fees for redemption; clarifying effect of repeal of certain code; directing portion of fees for specific purpose; providing for certain delinquent taxpayers to redeem in installment payments; modifying the procedure for and duration of right to set aside deed; modifying definition of blighted property; modifying the Reclamation of Abandoned and Dilapidated Properties Program; relating to the right of certain entities to purchase delinquent properties; modifying compensation due deputy commissioner; modifying the reclamation of abandoned and dilapidated properties program; requiring certain periodic reports; providing the department of environmental protection with the right to enter into certain statewide contracts; modifying certain entities rights to acquire tax delinquent properties; and modifying certain obligations of the West Virginia Land Stewardship Corporation land bank program.

Be it enacted by the Legislature of West Virginia:

[Chapter 11A. Collection and Enforcement of Property Taxes](http://www.westlaw.com/Browse/Home/StatutesCourtRules/WestVirginiaStatutesCourtRules?guid=N37E16640110C11DBB994FBF9052D027A&transitionType=DocumentItem&contextData=(sc.DocLink)&rs=clbt1.0&vr=3.0).

[Article 1. Accrual and Collection of Taxes](http://www.westlaw.com/Browse/Home/StatutesCourtRules/WestVirginiaStatutesCourtRules?guid=N37FF7590110C11DBB994FBF9052D027A&transitionType=DocumentItem&contextData=(sc.DocLink)&rs=clbt1.0&vr=3.0).

 § 11A-1-8. Notice of time and place for payment; mailing of tax tickets.

(a) The sheriff shall send to every person owing real or personal property taxes a copy of such taxpayers annual tax ticket or tickets showing what tax is due and how such tax may be paid. Such copy shall be sent to the last known address of such taxpayer by first class United States mail. The notice shall also state: (i) Those who pay the first installment of their taxes on or before the first day of September shall be entitled to a discount of two and one-half percent; and (ii) those who pay the second installment of their taxes on or before the first day of March shall be entitled to the same discount.

Failure of the sheriff to send or failure of the taxpayer to receive such copy shall not impair the right to collect such taxes, the right to collect any interest or penalty imposed as a result of the failure to pay such taxes or the method of enforcing the payment of such taxes, interest or penalty.

At such time as the sheriff prepares the delinquent list for real property, he or she shall compare such list with a copy of the landbooks most recently delivered by the assessor to the board of review and equalization pursuant to §11-3-19 of this code. The assessor shall make a copy of said landbooks available to the sheriff. If property on the delinquent list should appear as a transfer on said landbooks with the delinquent owner as the transferor, the sheriff shall send to the transferee at his or her last known address by first class United States mail a copy of the annual tax ticket or tickets showing what taxes are due upon the real property of such transferee and how they may be paid as prescribed in this section.

Failure of the sheriff to send or failure of the taxpayer to receive such copy shall not impair the right to collect such taxes, the right to collect any interest or penalty imposed as a result of the failure to pay such taxes or the method of enforcing the payment of such taxes, interest, or penalty.

(b) In addition to the notice of real or property taxes owed, provided in this section, the county commission of any county may order that the sheriff include in the mailing notice of any taxes or other fees owed to the county or a municipality in the county.

(c)(1) The sheriff shall accept credit cards in payment of any of the taxes, interest, or penalty described in this section. The type of credit card accepted shall be at the discretion of the sheriff.

(2) The sheriff may set a fee to be added to each credit card transaction equal to the charge paid by the state, county, sheriff, or taxpayer for the use of the credit card by the taxpayer. Except for fees imposed pursuant to this subdivision, no other fees for the use of a credit card may be imposed upon the taxpayer.

(d) The tax commissioner may promulgate legislative rules to provide for the payment of tax liability by installment payments other than those prescribed in subsection (a) of this section.

[Article 2. Delinquency and Methods of Enforcing Payment](http://www.westlaw.com/Browse/Home/StatutesCourtRules/WestVirginiaStatutesCourtRules?guid=N39FD6870110C11DBB994FBF9052D027A&transitionType=DocumentItem&contextData=(sc.DocLink)&rs=clbt1.0&vr=3.0).

§ 11A-2-14. Correction of delinquent lists by county commission; certification to Auditor; recordation.

The sheriff shall on or before May 15 of each year present the delinquent lists to the county commission for examination. The county commission having become satisfied that the lists are correct, or having corrected them if erroneous, shall direct the clerk of the county commission to certify a copy of each list, pertaining to real property, to the Auditor not later than June 1 of each year. The original lists shall be preserved by the clerk in his or her office, and the list of delinquent real estate shall be recorded in a permanent book to be kept by him or her for that purpose.

§ 11A-2-18. Redemption before sale; record; lien.

[Repealed.]

[Article 3. Sale of Tax Liens and Nonentered, Escheated, and Waste and Unappropriated Lands](http://www.westlaw.com/Browse/Home/StatutesCourtRules/WestVirginiaStatutesCourtRules?guid=N3DA820F0110C11DBB994FBF9052D027A&transitionType=DocumentItem&contextData=(sc.DocLink)&rs=clbt1.0&vr=3.0).

§11A-3-1. Declaration of legislative purpose and policy.

In view of the paramount necessity of providing regular tax income for the state, county, and municipal governments, particularly for school purposes; and in view of the further fact that delinquent land not only constitutes a public liability, but also represents a failure on the part of delinquent private owners to bear a fair share of the costs of government; and in view of the rights of owners of real property to adequate notice and an opportunity for redemption before they are divested of their interests in real property for failure to pay taxes or have their property entered on the land books; and in view of the fact that the circuit court suits heretofore provided prior to deputy commissioners’ sales are unnecessary and a burden on the judiciary of the state; and in view of the necessity to continue the mechanism for the disposition of escheated and waste and unappropriated lands; now therefore, the Legislature declares that its purposes in the enactment of this article are as follows: (1) To provide for the speedy and expeditious enforcement of the tax claims of the state and its subdivisions; (2) to provide for the transfer of delinquent and non-entered lands to those that will make beneficial use of said lands who are more responsible to, or better able to bear, the duties of citizenship than were the former owners; (3) to secure adequate notice to owners of delinquent and nonentered property of the pending issuance of a tax deed; (4) to permit deputy commissioners of delinquent and nonentered lands to sell such lands without the necessity of proceedings in the circuit courts; (5) to reduce the expense and burden on the state and its subdivisions of tax sales so that such sales may be conducted in an efficient manner while respecting the due process rights of owners of real property; and (6) to provide for the disposition of escheated and waste and unappropriated lands.

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

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

Notice is hereby given that the following described tracts or lots of land or undivided interests therein in the County of\_\_\_\_\_\_\_\_\_\_ and the tax liens that encumber the same which are delinquent for the nonpayment of taxes for the year (or years) 20\_\_\_, will be certified to the Auditor for disposition pursuant to West Virginia Code §11A-3-44 on the 31st day of October, 20\_\_\_.

Upon certification to the Auditor, tax liens on each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein, shall be sold at public auction to the highest bidder in an amount which shall not be less than the taxes, interest, and charges which shall be due thereon to the date of sale, as set 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 of sale |
|  |  |  |  |

If any of said tracts or lots remain unsold following the auction, they shall be subject to sale by the Auditor without additional advertising or public auction such terms as the Auditor deems appropriate pursuant to §11A-3-48 of this code.

Any of the aforesaid tracts or lots, or part thereof or an undivided interest therein, may be redeemed by the payment to the undersigned sheriff (or collector) before certification to the Auditor, of the total amount of taxes, interest, and charges due thereon up to the date of redemption by credit card, cashier’s check, money order, certified check or United States currency. Payment must be received in the tax office by the close of business on the last business day prior to the certification.

After certification to the Auditor, any of the aforesaid tracts or lots may be redeemed by any person entitled to pay the taxes thereon at any time prior to the sale by payment to the Auditor of the total amount of taxes, interest, and charges due thereon up to the date of redemption.

 Given under my hand this\_\_\_\_\_\_\_\_\_\_day of

\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_

Sheriff (or collector).

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

(b) In addition to such publication, no less than 30 days prior to the sale by the Auditor pursuant to § 11A-3-44 of this code, the sheriff shall send a notice of the delinquency and the date of sale by certified mail: (1) To the last known address of each person listed in the land books whose taxes are delinquent; (2) to each person having a lien on real property upon which the taxes are due as disclosed by a statement filed with the sheriff pursuant to the provisions of section three of this article; (3) to each other person with an interest in the property or with a fiduciary relationship to a person with an interest in the property who has in writing delivered to the sheriff on a form prescribed by the Tax Commissioner a request for such notice of delinquency; and (4) in the case of property which includes a mineral interest but does not include an interest in the surface other than an interest for the purpose of developing the minerals, to each person who has in writing delivered to the sheriff, on a form prescribed by the Tax Commissioner, a request for such notice which identifies the person as an owner of an interest in the surface of real property that is included in the boundaries of such property: *Provided,* That in a case where one owner owns more than one parcel of real property upon which taxes are delinquent, the sheriff may, at his or her option, mail separate notices to the owner and each lienholder for each parcel or may prepare and mail to the owner and each lienholder a single notice which pertains to all such delinquent parcels. If the sheriff elects to mail only one notice, that notice shall set forth a legally sufficient description of all parcels of property on which taxes are delinquent. In no event shall failure to receive the mailed notice by the landowner or lienholder affect the validity of the title of the property conveyed if it is conveyed pursuant to §11A-3-27 of §11A-3-59 of this code.

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

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

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

§ 11A-3-4. Redemption after second publication and before certification to the Auditor.

Any of the real estate included in the list published pursuant to the provisions of §11A-3-2 of this code may be redeemed at any time before certification to the Auditor as provided in §11A-3-8 of this code, by cashier check, money order, certified check, or United States currency.

§11A-3-5. Sale by sheriff; immunity; penalty; mandamus.

[Repealed.]

§11A-3-5a. Effective date of transfer of duties for delinquent land sales by sheriff from the county clerk to the State Auditor.

[Repealed.]

§11A-3-5b. Authorization for county clerk to perform duties for delinquent land sales by sheriff.

[Repealed.]

§11A-3-6. Purchase by sheriff, State Auditor, deputy commissioner and clerk of county commission prohibited; co-owner free to purchase at tax sale.

[Repealed.]

§11A-3-7. Suspension from same; amended delinquent lists; subsequent sale.

[Repealed.]

§11A-3-8. Certification of property to the Auditor.

If any real estate included in the list published pursuant to the provisions of §11A-3-2 of this code is not redeemed in accordance with §11A-3-4 of this code by October 31 of the year the list was published, the sheriff shall certify the real estate except the sheriff shall include any subsequent taxes due at the time of the list published pursuant to §11A-3-2 of this code to the Auditor for disposition pursuant to §11A-3-44 of this code, subject, however, to the right of redemption provided by §11A-3-38 of this code. The Auditor shall prescribe the form by which the sheriff certifies the property.

§11A-3-9. Sheriff’s list of redemptions and certifications; oath.

(a) As soon as the certification provided in §11A-3-8 of this code has been completed, the sheriff shall prepare a list of all tax liens on delinquent real estate redeemed before certification or certified to the Auditor. The heading of the list shall be in form or effect as follows:

List of tax liens on real estate in the county of \_\_\_\_\_\_\_\_\_\_, returned delinquent for nonpayment of taxes thereon for the year (or years) 20\_\_\_, and redeemed before certification or certified to the Auditor.

(b) The sheriff shall, at the foot of the list, subscribe an oath, which shall be subscribed before and certified by some person duly authorized to administer oaths, in form or effect as follows:

I, \_\_\_\_\_\_\_\_\_\_, sheriff (or deputy sheriff or collector) of the county of \_\_\_\_\_\_\_\_\_\_, do swear that the above list contains a true account of all the tax liens on real estate within my county returned delinquent for nonpayment of taxes thereon for the year (or years) 20\_\_\_, which were redeemed before certification or certified to the Auditor.

(c) Except for the heading and the oath, the Auditor shall prescribe the form of the list.

§11A-3-10. Sheriff to account for proceeds; disposition of surplus.

(a) The sheriff shall account for the proceeds of all redemptions included in such list in the same way he or she accounts for other taxes collected by him or her.

(b) All real estate included in the first delinquent list sent to the Auditor, and not accounted for in the list of redemptions and certifications, shall be deemed to have been redeemed before certification, and the taxes, interest, and charges due thereon shall be accounted for by the sheriff as if they had been received by him or her before the sale.

**§11A-3-11. Return of list certifications; redemptions.**

(a) Within one month after completion of the certification, the sheriff shall deliver the original list of redemptions and certifications described in §11A-3-9 of this code, with a copy thereof, to the clerk of the county commission. The clerk shall bind the original of such list in a permanent book to be kept for the purpose in his or her office. The clerk, within 10 days after delivery of the list to him or her, shall transmit the copy to the Auditor, who shall note each redemption, and certification on the record of delinquent lands kept in his or her office.

(b) Any sheriff who fails to prepare and return the list of redemptions and certifications within the time required by this section shall forfeit not less than $50 nor more than $500, for the benefit of the general school fund, to be recovered by the Auditor or by any taxpayer of the county on motion in a court of competent jurisdiction. Upon the petition of any person interested, the sheriff may be compelled by mandamus to make out and return the list and the proceedings thereon shall be at his or her cost.

§11A-3-12. Amendment of such list.

If the sheriff shall make any error or omission in the list of redemptions and certifications returned to the clerk of the county commission, he or she or any person interested may, within 30 days after the publication of such list, apply by petition to the county commission for an order permitting or requiring amendment of the list. Any person who may be prejudiced by the proposed amendment must, if found within the county, be given at least 10 days’ notice of such application. Upon proof of the error or mistake the commission shall make an order permitting or requiring the sheriff to file an amended list with the clerk of the commission. The sheriff shall thereupon prepare and deliver to the clerk of the commission the amended list and a copy thereof, with a copy of the order of the commission permitting or requiring it to be filed attached to the list and to the copy. The clerk shall substitute the original of the amended list for the list already in his or her office, and make the necessary corrections on his record of delinquent lands. The clerk shall transmit the copy of the amended list to the Auditor who shall note the corrections on his or her record of delinquent lands.

§11A-3-13. Publication by sheriff of certification list.

Within one month after completion of the certification, the sheriff shall prepare and publish a list of all the certifications made by him or her, in form or effect as follows, which list shall be published as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county.

List of tax liens on real estate in the county of \_\_\_\_\_\_\_\_\_\_, in the month (or months) of \_\_\_\_\_\_\_\_\_\_, 20\_\_\_, certified for nonpayment of taxes thereon for the year (or years) 20\_\_\_, and certified to the Auditor of the State of West Virginia:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Name of****person charged with taxes** | **Local****description****of lands** | **Quantity of****land charged** |  |  |  |
|   |   |   |   |   |   |

The owner of any real estate listed above, or any other person entitled to pay the taxes thereon, may, however, redeem such real estate as provided by law.

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Sheriff

To cover the costs of preparing and publishing such list, a charge of $15 shall be added to the taxes, interest, and charges already due on each item listed.

§11A-3-14. Purchase by individual at tax sale; certificate of sale.

[Repealed.]

§11A-3-15. Certificate of sale assignable.

[Repealed.]

§11A-3-16. Subsequent tax payments by purchaser.

[Repealed.]

§11A-3-17. Sale of subsequent tax liens.

[Repealed.]

§11A-3-18. Limitations on tax liens.

[Repealed.]

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

[Repealed.]

§11A-3-20. Refund to purchaser of payment made at sheriff’s sale where property is subject of an erroneous assessment or is otherwise nonexistent.

[Repealed.]

§11A-3-21. Notice to redeem.

[Repealed.]

§11A-3-22. Service of notice.

[Repealed.]

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

[Repealed.]

§11A-3-24. Notice of redemption from purchases; moneys received by sheriff.

[Repealed.]

§11A-3-25. Distribution of surplus to purchaser.

[Repealed.]

§11A-3-26. Certificate of redemption issued by State Auditor; recordation; disposition of redemption money.

[Repealed.]

§11A-3-27. Deed to purchaser; record.

[Repealed.]

§11A-3-28. Compelling service of notice or execution of deed.

[Repealed.]

§11A-3-29. One deed for adjoining pieces of real estate within the same tax district.

[Repealed.]

**§11A-3-30. Title acquired by individual purchaser; action to quiet title**

[Repealed]

**§11A-3-31. Effect of irregularity on title acquired by purchaser.**

[Repealed]

§11A-3-32. Sheriff to keep proceeds in separate accounts; disposition.

(a) The sheriff shall keep in a separate fund the proceeds of all redemptions paid to him or her under the provisions of this chapter, except for those proceeds for which a separate fund is directed by the provisions of §11A-3-64 of this code. Out of the total proceeds of each redemption he or she shall in the order of priority stated below credit the following amounts for payment as provided in this section:

(1) To the general county fund, the part that represents costs paid out of the fund for publishing the sheriff's delinquent and sales list and all other costs incurred by the sheriff pursuant to the provisions of this article;

((2) The balance, if any, of the proceeds of the lands included in each suit shall be prorated among the various taxing units on the basis of the total amount of taxes due them in respect to the lands that were redeemed.

(b) The amounts so determined shall be credited as follows for payment as provided in this subsection:

(1) To the Auditor, the part that represents state taxes and interest; and

(2) To the fund kept by the sheriff for each local taxing unit, the part that represents taxes and interest payable to the unit.

(c) All amounts which under the provisions of this section were credited by the sheriff to the Auditor shall be paid to him or her semiannually, and those credited to the various local taxing units shall be transferred semiannually by the sheriff to the fund kept by him or her for each taxing unit.

(d) The Auditor shall prescribe the form of the records to be kept by the sheriff for the purposes of this section, and the method to be used by him or her in making the necessary pro rata distributions.

§11A-3-39. Certificate of redemption issued by Auditor; recordation.

(a) Upon payment of the sum necessary to redeem, the Auditor shall execute a certificate of redemption in triplicate, which certificate shall specify the real estate redeemed, or the interest therein, as the case may be, together with any changes in respect thereto which were made in the land book and in the record of delinquent lands, shall specify the year or years for which payment was made, and shall state that it is a receipt for the money paid and a release of the state's lien against the real estate redeemed. The original certificate shall be retained in the files in the Auditor's office, one copy shall be delivered to the person redeeming and the second copy shall be mailed by the Auditor to the clerk of the county commission of the county in which the real estate is situated, who, after making any necessary changes in his or her record of delinquent lands, shall note the fact of redemption on such record, and shall record the certificate in a separate volume provided for the purpose.

The fee for issuing the certificate of redemption shall be $20 and seven and one-half percent of the total taxes and interest not to exceed $120.

(b) All certificates of redemption issued by the Auditor in each year shall be numbered consecutively and shall be filed by the clerk of the county commission in numerical order. Reference to the year and number of the certificate shall be included in the notation of redemption required of the clerk of the county commission. No fee shall be charged by the clerk for any recordation, filing, or notation required by this section. Ten dollars of the commission fee received by the Auditor on a redemption shall be deposited into the Courthouse Facilities Improvement Fund set out in §29-26-6 of this code.

§11A-3-42. Lands subject to sale by Auditor.

All lands which were certified to the Auditor pursuant to §11A-3-8 of this code and which have not been redeemed, , together with all non-entered lands, all escheated lands, and all waste and unappropriated lands, shall be subject to sale by the Auditor as further provided in this article. References in this chapter to the sale or purchase of certified or non-entered lands by or from the Auditor shall be construed as the sale or purchase of the tax lien or liens thereon.

§ 11A-3-44. Auditor to certify list of lands to be sold; lands so certified are subject to sale.

On or after March 1and on or before August 1 of each year, the Auditor shall certify a list of all lands subject to sale under this article. He or she shall note the fact of certification on the land record in his or her office. Upon completion of the list for certification, a charge of $25 shall be added to the taxes, interest, and charges already due on each tract listed, to cover the costs incurred by the Auditor in the preparation of the list, and in the event of sale or redemption, the same shall be collected and paid into the operating fund provided for in this article.

Escheated lands and waste and unappropriated lands shall be listed separately. The list shall be arranged by districts and, except in the case of waste and unappropriated lands, alphabetically by the name of the owner. The list shall state as to each item listed the information required by §11A-3-35 of this code to be set forth in the land record in the Auditor's office, and shall specify as to each tract listed as delinquent or non-entered the amount of taxes and interest due or chargeable thereon on the date of certification, the publication and other charges due, with interest, and the total currently due. The specification of taxes due or chargeable shall as to delinquent land commence with those for nonpayment of which it was certified, and as to non-entered land with those properly chargeable to it for the first year of nonentry, subject to the provisions of theproviso set forth in §11A-3-38(b) of this code.

All items certified by the Auditor shall be numbered consecutively. All subsequent entries, applications, or proceedings under this article in respect to any item shall refer to its number and the year of certification. Notwithstanding any provisions of this article to the contrary, all tracts, lots, or parcels certified to the Auditor as a unit may be treated by the Auditor as a single item for purposes of certification. Subject to the provisions of this section, the Auditor shall prescribe a form for the list and shall provide in such form adequate space to show the subsequent history and final disposition of each item certified.

The list shall be made in quadruplicate. The Auditor shall keep the original and send one copy to the clerk of the county commission, one to the sheriff, and one to the West Virginia Land Stewardship Corporation created pursuant to §31-21-1 *et seq.* of this code. The clerk of the county commission shall bind his or her copy in a permanent book to be labeled “Report of Auditor of Delinquent and Non-Entered Lands” and shall note the fact of the certification of each item on his or her record of delinquent lands. Such copies delivered to the clerk of the county commission and the sheriff shall become permanent records, and shall be preserved as such in the offices of the Auditor and the clerk of the county commission.

§11A-3-45. Auditor to hold annual auction.

(a) Each tract or lot certified by the Auditor pursuant to §11A-3-44 of this code shall be sold by him or her at public auction at the courthouse of the county to the highest bidder during the courthouse’s normal operating hours on any business working day within 90 days after the Auditor has certified the lands as required by §11A-3-44 of this code. The payment for any tract or lot purchased at a sale shall be made by check, U. S. currency, or money order payable to the Auditor and delivered before the close of business on the day of sale. No part or interest in any tract or lot subject to such sale, or any part thereof of interest therein, that is less than the entirety of such unredeemed tract, lot, or interest, as the same is described and constituted as a unit or entity in said list, shall be offered for sale or sold at such sale. If the sale shall not be completed on the first day of the sale, it shall be continued from day to day between the same hours until all the land shall have been offered for sale.

(b) A private, nonprofit, charitable corporation, incorporated in this state, which has been certified as a nonprofit corporation pursuant to the provisions of [Section 501(c)(3) of the federal Internal Revenue Code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1012823&cite=26USCAS501&originatingDoc=N9A1797B018BB11DBBD71E8EE54CAD448&refType=RB&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)#co_pp_b1b5000051ac5), as amended, which has as its principal purpose the construction of housing or other public facilities and which notifies the Auditor of an intention to bid and subsequently submits a bid that is not more than five percent lower than the highest bid submitted by any person or organization which is not a private, nonprofit, charitable corporation as defined in this subsection, shall be sold the property offered for sale at public auction by the Auditor pursuant to the provisions of this section at the public auction as opposed to the highest bidder.

The nonprofit corporation referred to in this subsection does not include a business organized for profit, a labor union, a partisan political organization, or an organization engaged in religious activities, and it does not include any other group which does not have as its principal purpose the construction of housing or public facilities.

§11A-3-46. Publication of notice of auction.

Once a week for three consecutive weeks prior to the auction required in §11A-3-45 of this code, the Auditor shall publish notice of the auction as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county.

The notice shall be in form or effect as follows:

Notice is hereby given that the following described tracts or lots of land in the County of \_\_\_\_\_\_\_\_\_\_, have been certified by the Auditor of the State of West Virginia, for sale at public auction. The lands will be offered for sale by the undersigned Auditor at public auction in (specify location) the courthouse of \_\_\_\_\_\_\_\_\_\_ County between the hours of \_\_\_\_\_\_\_\_\_\_ in the morning and\_\_\_\_\_\_\_\_in the afternoon, on the \_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

Each tract or lot as described below will be sold to the highest bidder at the auction. The payment for any tract or lot purchased at a sale shall be made by check or money order payable to the Auditor and delivered before the close of business on the day of the sale. If any of said tracts or lots remain unsold following the auction, they will be subject to later sale without additional advertising or public auction. The Auditor’s sale may include tracts or lots remaining unsold from a previous auction not required by law to be readvertised and described for this subsequent auction of those same tracts and lots. All sales are subject to the approval of the Auditor of the State of West Virginia.

(here insert description of advertised lands to be sold)

Any of the aforesaid tracts or lots may be redeemed by any person entitled to pay the taxes thereon at any time prior to the sale by payment to the Auditor of the total amount of taxes, interest, and charges due thereon up to the date of redemption. Lands listed above as escheated or waste and unappropriated lands may not be redeemed.

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

\_\_\_\_\_\_\_\_\_\_ Auditor of the State of West Virginia.

The description of lands required in the notice shall be in the same form as the list certifying said lands for sale. If the Auditor is required to auction lands certified to him or her in any previous years, pursuant to §11A-3-48 of this code, he or she shall include such lands in the auction without further advertisement, with reference to the year of certification and the item number of the tract or interest.

To cover the cost of preparing and publishing the notice, a charge of $30 shall be added to the taxes, interest, and charges due on the delinquent and non-entered property.

§11A-3-48. Unsold lands subject to sale without auction or additional advertising.

If any of the lands which have been offered for sale at the public auction provided in §11A-3-45 of this code shall remain unsold following such auction; or were sold at a tax sale auction within the previous five years, which were not redeemed, and for which no deed was secured by the purchaser; or if the Auditor refuses to approve the sale pursuant to §11A-3-51 of this code, the Auditor may sell the lands without any further public auction or additional advertising of the land, in the following priority: (1) To a person vested with an ownership interest in an adjacent tract or parcel of land: *Provided,* That If more than one adjacent landowner desires to acquire the same tract or lot, then the Auditor shall sell such tract or lot to the highest bidder; (2) to the municipality in which the tract or lot is located; (3) The county commission of the county in which the tract or lot is located; (4) to the West Virginia Land Stewardship Corporation as part of its Land Bank Program set forth in §31-21-11 *et seq.* of this code; or (5) to any party willing to purchase such property.

The price of such property shall be as agreed upon by the Auditor and purchaser.

§ 11A-3-50. Receipt to purchaser for purchase price.

The Auditor shall prepare an original and two copies of the receipt for the purchase money. He or she shall give the original receipt to the purchaser and shall file one copy thereof with the clerk of the county commission and one copy thereof with the sheriff, each of whom shall note the fact of such sale on their respective records of delinquent lands. The heading of the receipt shall be:

Memorandum of real estate sold in the county of \_\_\_\_\_\_\_\_\_\_ on this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20 \_\_\_, by \_\_\_\_\_\_\_\_\_\_, the Auditor of the State of West Virginia.

Except for the heading, the Auditor shall prescribe the form of the receipt.

§ 11A-3-52. Duties of purchaser to secure a deed.

(a) Within 120 days following the approval of the sale by the Auditor pursuant to §11A-3-51 of this code, the purchaser, his or her heirs or assigns, in order to secure a deed for the real estate purchased, shall:

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

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

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

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

(c) After the requirements of subsection (a) of this section have been satisfied, the Auditor shall issue and notice to redeem as required by §11A-3-54 and §11A-3-55 of this code.

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

(e) Whenever a purchaser has failed to comply with the notice requirements set forth in subsection (a) of this section, the purchaser may receive an additional 60 days from the expiration of the time period set forth in subsection (a) of this section to comply with the notice requirements set forth in subsection (a) of this section if the purchaser files with the Auditor a request in writing for the extension within 30 days following the expiration of the time period set forth in subsection (a) of this section and makes payment by U. S. currency, cashier’s check, certified check, or money order in the amount of $100 or 10 percent of the total amount paid on the day of sale set forth in §11A-3-45 of this code, whichever is greater. The fee for issuing the certificate of extension shall be $25 made payable to the Auditor.

(f) The Auditor shall each month draw his or her warrant upon the treasury payable to the county board of education of each county for payment received by him or her for the extension of the time period set forth in subsection (e) of this section for property located within each such county.

§11A-3-53. Refund to purchaser of payment made at Auditor’s sale where property is nonexistent.

If, within 180 days following the approval of the sale by the Auditor, the purchaser discovers that the property purchased at the sale is nonexistent, the purchaser shall submit the abstract or certificate of an attorney-at-law that the property is nonexistent. Upon receipt of the abstract or certificate, the Auditor cause the moneys so paid on the day of the sale to be refunded. Upon refund of the amount bid at an Auditor’s sale, he or she shall inform the assessor that the property does not exist for the purpose of having the assessor correct the error.

If at any within 180 days following the approval of the sale by the Auditor, the sheriff, clerk of the county commission, assessor or Auditor determines that the tax lien on the subject property should be cancelled or dismissed, the Auditor shall issue a certificate of cancellation on the tax lien and shall cause the money paid on the day of the sale to be refunded.

§11A-3-54. Notice to redeem.

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

To \_\_\_\_\_\_\_\_\_\_

You will take notice that \_\_\_\_\_\_\_\_\_\_, the purchaser (or \_\_\_\_\_\_\_\_\_\_, the assignee, heir, or devisee of \_\_\_\_\_\_\_\_\_\_, the purchaser) of the following real estate, \_\_\_\_\_\_\_\_\_\_, (here describe the real estate sold) located in \_\_\_\_\_\_\_\_\_\_, (here name the city, town, or village in which the real estate is situated or, if not within a city, town, or village, give the district and a general description) which was \_\_\_\_\_\_\_\_\_\_ (here put whether the property was returned delinquent or non-entered) in the name of \_\_\_\_\_\_\_\_\_\_, and was sold by the Auditor at the sale for delinquent taxes (or nonentry) on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20 \_\_\_, has requested that you be notified that a deed for such real estate shall be made on or after the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20 \_\_\_, as provided by law, unless before that day you redeem such real estate. The amount you shall have to pay to redeem on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20 \_\_\_ shall be as follows:

Amount equal to the taxes, interest, and charges due on the date of sale, with interest to \_\_\_\_\_\_\_\_\_\_ .......... $\_\_\_\_\_\_\_\_\_\_

Amount of taxes paid on the property, since the sale, with interest to \_\_\_\_\_\_\_\_\_\_ .......... $\_\_\_\_\_\_\_\_\_\_

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

Amount paid for other statutory costs (describe) \_\_\_\_\_\_\_\_\_\_ .......... $\_\_\_\_\_\_\_\_\_\_

Total .......... $\_\_\_\_\_\_\_\_\_\_

You may redeem at any time before \_\_\_\_\_\_\_\_\_\_ by paying the above total less any unearned interest.

If the above real estate is your primary residence, you may petition the Auditor to redeem the real estate in not more than three incremental payments that equal the total amount required to redeem the real estate prior to the issuance of the deed described above.

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

Auditor

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

State of West Virginia

For preparing this notice, the Auditor shall receive a fee of $10 for the original and two dollars for each copy required. Any costs which must be expended in addition thereto for publication, or service of such notice in the manner provided for serving process commencing a civil action, or for service of process by certified mail, shall be charged by the Auditor. All costs provided by this section shall be included as redemption costs and included in the notice described herein.

§11A-3-55. Service of notice.

(a) As soon as the Auditor has prepared the notice provided for in §11A-3-54 of this code, he or she shall cause it to be served upon all persons named on the list generated by the purchaser pursuant to the provisions of §11A-3-52 of this code. Such notice shall be mailed and, if necessary, published at least 45 days prior to the first day a deed may be issued following the Auditor’s sale.

(b) The notice shall be served upon all such persons residing or found in the state in the manner provided for serving process commencing a civil action or by certified mail, return receipt requested, or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30th day following the request for such notice.

 (c) The notice shall be served upon persons not residing or found in the state by certified mail, return receipt requested, or in the manner provided for serving process commencing a civil action or other types of delivery service courier that provide a receipt. The notice shall be served on or before the 30 days following the request for the notice.

(d) If the address of a person is unknown to the purchaser and cannot be discovered by due diligence on the part of the purchaser, the notice shall be served by publication as a Class III-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area for the publication shall be the county in which the real property is located. If service by publication is necessary, publication shall be commenced within 60 days following the request for the notice, and a copy of the notice shall, at the same time, be sent pursuant to subsection (b) or (c) of this section, to the last known address of the person to be served. The return of service of the notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the State Auditor in his or her office, together with any return receipts for notices sent by certified mail.

(e) In addition to the other notice requirements set forth in this section, if the real property subject to the tax lien was classified as Class II property at the time of the assessment, at the same time the Auditor issues the required notices by certified mail, the Auditor shall forward a copy of the notice sent to the delinquent taxpayer by first class mail, or in the manner provided for serving process commencing a civil action, addressed to “Occupant”, to the physical mailing address for the subject property. The physical mailing address for the subject property shall be supplied by the purchaser of the property, pursuant to the provisions of §11A-3-52 of this code. Where the mail is not deliverable to an address at the physical location of the subject property, the copy of the notice shall be sent to any other mailing address that exists to which the notice would be delivered to an occupant of the subject property.

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

(a) After the sale of any tax lien on any real estate pursuant to [§11A-3-45](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS11A-3-45&originatingDoc=N41C3D290823911E98D5A8BC3DD0B94A7&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)) or [§11A-3-48 of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS11A-3-48&originatingDoc=N41C3D290823911E98D5A8BC3DD0B94A7&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)), the owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax lien thereon was purchased may redeem at any time before a tax deed is issued therefor. In order to redeem, he or she must pay to the Auditor the following amounts:

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

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

(3) Such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney’s title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount he or she shall be required to pay, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by [§11A-3-52 of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS11A-3-52&originatingDoc=N41C3D290823911E98D5A8BC3DD0B94A7&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)), and for any licensed attorney’s title examination incident thereto, shall not exceed $500. An attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by [§11A-3-52 of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS11A-3-52&originatingDoc=N41C3D290823911E98D5A8BC3DD0B94A7&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink));

(4) All additional statutory costs paid by the purchaser; and

(5) The Auditor’s fee and commission as provided by [§11A-3-66 of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS11A-3-66&originatingDoc=N41C3D290823911E98D5A8BC3DD0B94A7&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)). Where the Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, or of any licensed attorney’s title examination incident thereto, in the form of receipts or other evidence thereof, the person redeeming shall pay the Auditor the sum of $500 plus interest thereon at the rate of one percent per month from the date of the sale for disposition pursuant to the provisions of [§11A-3-57](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS11A-3-57&originatingDoc=N41C3D290823911E98D5A8BC3DD0B94A7&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)), [§11A-3-58](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS11A-3-58&originatingDoc=N41C3D290823911E98D5A8BC3DD0B94A7&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)), and [§ 11A-3-64 of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS11A-3-64&originatingDoc=N41C3D290823911E98D5A8BC3DD0B94A7&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.DocLink)). Upon payment to the Auditor of those and any other unpaid statutory charges required by this article, and of any unpaid expenses incurred by the sheriff and the Auditor, and the deputy commissioner in the exercise of their duties pursuant to this article, the Auditor shall prepare an original and five copies of the receipt for payment and shall note on said receipts that the property has been redeemed. The original of such receipt shall be given to the person redeeming. The Auditor shall retain a copy of the receipt and forward one copy each to the sheriff, assessor, and the clerk of the county commission. The clerk shall endorse on the receipt the fact and time of such filing and note the fact of redemption on his or her record of delinquent lands.

(b) Any person for reasons of financial hardship may petition the Auditor to redeems his or her primary residence in installments. The petition shall certify to the Auditor that the real estate is the primary residence of the redeeming party. The Auditor may approve a financial hardship plan and it shall be signed by him or her and the party making the request. A copy of the document evidencing such acceptance shall be filed with the clerk of the county commission in which the property is located.

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

§11A-3-66. Compensation of Auditor.

As compensation for his or her services, the Auditor shall be entitled to a fee of $20 for each item certified by him or her pursuant to §11A-3-44 of this code. In addition thereto he or she shall receive a commission of seven and one half percent and interest on each sale or redemption not to exceed $120.00. A commission received on a sale shall be based on the sale price and a commission received on a redemption shall be based on the total taxes and interest due. Such compensation shall be paid as provided in this article. Ten dollars of the commission fee received by the Auditor on a redemption shall be deposited into the Courthouse Facilities Improvement Fund set out in §29-26-6 of this code.

**§11A-3-69. Effect of repeal.**

 The repeal of the provisions of §11A-3-5, §11A-3-5a, §11A-3-5b, §11A-3-6, §11A-3-7, §11A-3-14, §11A-3-15, §11A-3-16, §11A-3-17, §11A-3-18, §11A-3-19, §11A-3-20, §11A-3-21, §11A-3-22, §11A-3-23, §11A-3-24, §11A-3-25, §11A-3-26, §11A-3-27, §11A-3-28, §11A-3-29, §11A-3-30, and §11A-3-31 of this code, enacted during the 2022 regular session of the Legislature, shall not affect any tax liens sold prior to January 1, 2022.

Article 4. Remedies Relating to Tax Sales.

**§ 11A-4-3. Right to set aside deed improperly obtained.**

Whenever the Auditor has delivered a deed to the purchaser after the time specified in §11A-3-59 of this code, or, within that time, has delivered a deed to a purchaser who was not entitled thereto either because of his failure to meet the requirements of §11A-3-52 of this code, or because the property conveyed had been redeemed, the owner of such property, his heirs and assigns, or the person who redeemed the property, may, before the expiration of three years following the delivery of the deed, institute a civil action to set aside the deed. No deed shall be set aside under the provisions of this section, except in the case of redemption, until payment has been made or tendered to the purchaser, he or she, his or her heirs and assigns, of the amount which would have been required for redemption, together with any taxes which have been paid on the property since delivery of the deed, with interest at the rate of 12 percent per annum.

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

(a) If any person entitled to be notified under the provisions of §11A-3-55 of this code is not served with the notice as therein required, and does not have actual knowledge that such notice has been given to others in time to protect his or her interests by redeeming the property, he or she, his or her heirs and assigns may, before the expiration of two years following the delivery of the deed, institute a civil action to set aside the deed.

(b) Any person instituting a civil action pursuant to this section seeking to set aside a tax deed shall, as a condition precedent to the court allowing the action to proceed, tender to the clerk of the court in which the suit is pending the funds necessary to redeem the real estate. The court shall enter an order directing the clerk to accept the funds of the applicant, and deposit those funds into an account in the control of the clerk pending the conclusion of the proceeding.

(c) In any action brought by a tax sale purchaser or his or her grantee seeking to quiet the title pursuant to an Auditor’s sale, the previous owner and any person entitled to notice or right to redeem shall have the right to assert as a defense to the requested remedy the existence of both a failure of notice of the right to redeem and a failure of the applicant for the deed to have exercised reasonably diligent efforts to provide notice of his or her intention to acquire title to the real estate. It shall be a condition precedent to raising such a defense that he or she has the funds necessary to redeem the real estate should he or she prevail. Upon application by the person instituting such suit, the court shall enter an order directing the defendant to tender funds in the sufficient amount to the clerk for deposit into an account in the clerk’s control pending conclusion of the proceeding. Failure to tender the necessary funds within 30 days following the entry of the order requiring the deposit shall entitle the purchaser to a judgment in his or her favor.

(d) An answer filed by a purchaser or his or her grantee shall include the amount required for redemption, together with any taxes which have been paid on the property since delivery of the deed, with interest at the rate of 12 percent per annum.

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

 (f) Upon a preliminary finding by the court that the deed will be set aside pursuant to this section, such amounts on deposit with the clerk pursuant to this section shall be paid by the clerk to the sheriff within one month of the entry thereof and shall direct the sheriff to pay to the purchaser amounts pursuant to §11A-3-58 of this code. Upon a finding by the court that the deed will not be set aside and with the entry of a judgment dismissing the action with prejudice, the clerk shall return to the plaintiff or other appropriated person whose funds previously tendered, less any accrued costs assessed against such person such funds by the court.

[Chapter 16. Public Health](http://www.westlaw.com/Browse/Home/StatutesCourtRules/WestVirginiaStatutesCourtRules?guid=N75FAA0E011D411DBB994FBF9052D027A&transitionType=DocumentItem&contextData=(sc.DocLink)&rs=clbt1.0&vr=3.0).

[Article 18. Slum Clearance](http://www.westlaw.com/Browse/Home/StatutesCourtRules/WestVirginiaStatutesCourtRules?guid=NB659D0C011D411DBB994FBF9052D027A&transitionType=DocumentItem&contextData=(sc.DocLink)&rs=clbt1.0&vr=3.0).

§16-18-3. Definitions.

The following terms, wherever used or referred to in this article, shall have the following meanings, unless a different meaning is clearly indicated by the context:

“Area of operation” means in the case of a municipality, the area within such municipality and the area within five miles of the territorial boundaries thereof, except that the area of operation of a municipality under this article shall not include any area which lies within the territorial boundaries of another municipality unless a resolution shall have been adopted by the governing body of such other municipality declaring a need therefor; and in the case of a county, the area within the county, except that the area of operation in such case shall not include any area which lies within the territorial boundaries of a municipality unless a resolution shall have been adopted by the governing body of such municipality declaring a need therefor; and in the case of a regional authority, shall mean the area within the communities for which such regional authority is created: *Provided,* That a regional authority shall not undertake a redevelopment project within the territorial boundaries of any municipality unless a resolution shall have been adopted by the governing body of such municipality declaring that there is a need for the regional authority to undertake such development project within such municipality. No authority shall operate in any area of operation in which another authority already established is undertaking or carrying out a redevelopment project without the consent, by resolution, of such other authority.

“Authority”, “slum clearance and redevelopment authority”, or “urban renewal authority” means a public body, corporate and politic, created by or pursuant to section four of this article or any other public body exercising the powers, rights, and duties of such an authority as hereinafter provided.

“Blighted area” means an area, other than a slum area, which by reason of the predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site improvement, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

“Blighted property” means a tract or parcel of land that, by reason of abandonment, dilapidation, deterioration, age or obsolescence, inadequate provisions for ventilation, light, air or sanitation, high density of population and overcrowding, tax delinquency, deterioration of site or other improvements, or the existence of conditions that endanger life or property by fire or other causes, or any combination of such factors, is detrimental to the public health, safety, or welfare.

“Bonds” means any bonds, including refunding bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this section.

“Community” means any municipality or county in the state.

“Clerk” means the clerk or other official of the municipality or county who is the custodian of the official records of such municipality or county.

“Federal government” is the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

“Governing body” means the council or other legislative body charged with governing the municipality or the county court or other legislative body charged with governing the county.

“Mayor” means the officer having the duties customarily imposed upon the executive head of a municipality.

“Municipality” means any incorporated city, town, or village in the state.

“Obligee” means any bondholder, agents, or trustees for any bondholders, or lessor demising to the authority property used in connection with a redevelopment project, or any assignee or assignees of such lessor’s interest or any part thereof, and the federal government when it is a party to any contract with the authority.

“Person” means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and shall include any trustee, receiver, assignee, or other similar representative thereof.

“Public body” means the state or any municipality, county, township, board, commission, authority, district, or any other subdivision or public body of the state.

“Real property” includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

“Redeveloper” means any person, partnership, or public or private corporation or agency which shall enter or propose to enter into a redevelopment contract.

“Redevelopment contract” means a contract entered into between an authority and a redeveloper for the redevelopment of an area in conformity with a redevelopment plan.

“Redevelopment plan” means a plan for the acquisition, clearance, reconstruction, rehabilitation, or future use of a redevelopment project area.

“Redevelopment project” means any work or undertaking:

(1) To acquire pursuant to the limitations contained in §54-1-2(11) of this code slum areas or blighted areas or portions thereof, including lands, structures, or improvements, the acquisition of which is necessary or incidental to the proper clearance, development, or redevelopment of such slum or blighted areas or to the prevention of the spread or recurrence of slum conditions or conditions of blight;

(2) To clear any such areas by demolition or removal of existing buildings, structures, streets, utilities, or other improvements thereon and to install, construct, or reconstruct streets, utilities, and site improvements essential to the preparation of sites for uses in accordance with a redevelopment plan;

(3) To sell, lease, or otherwise make available land in such areas for residential, recreational, commercial, industrial or other use or for public use or to retain such land for public use, in accordance with a redevelopment plan; and

(4) Preparation of a redevelopment plan, the planning, survey and other work incident to a redevelopment project, and the preparation of all plans and arrangements for carrying out a redevelopment project.

“Slum area” means an area in which there is a predominance of buildings or improvements or which is predominantly residential in character and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals, or welfare.

“Unblighted property” means a property that is not a blighted property.

Chapter 22. Environmental Resources.

[Article 15a. The A. James Manchin Rehabilitation Environmental Action Plan](http://www.westlaw.com/Browse/Home/StatutesCourtRules/WestVirginiaStatutesCourtRules?guid=N1FB3BCD011D911DBB994FBF9052D027A&transitionType=DocumentItem&contextData=(sc.Search)&rs=clbt1.0&vr=3.0).

§22-15A-30. Reclamation of Abandoned and Dilapidated Properties Program.

(a) To assist county commissions, municipalities, urban renewal authorities created pursuant to §16-18-1 *et seq.* of this code, and land reuse agencies and municipal land banks created pursuant to §31-18E-1 *et seq.* of this code*,* in their efforts to remediate abandoned, blighted, and dilapidated structures or properties as provided in this code, the Department of Environmental Protection may develop a program called the Reclamation of Abandoned and Dilapidated Properties Program. Using the fund established in subsection (b) of this section, the Department of Environmental Protection may work with county commissions, municipalities, urban renewal authorities, land reuse agencies, and municipal land banks to implement redevelopment plans which will, at a minimum, establish prioritized inventories of structures eligible to participate in the program, offer reuse options for sites, and recommend actions county commissions or municipalities may take to remediate abandoned and dilapidated structures in their communities.

(b) There is created in the State Treasury a special revenue fund known as the Reclamation of Abandoned and Dilapidated Properties Program Fund. The fund shall be comprised of any money granted by charitable foundations, allocated by the Legislature, allocated from federal agencies, and earned from the investment of money held in the fund, and all other money designated for deposit to the fund from any source, public or private. The fund shall operate as a special revenue fund and all deposits and payments into the fund do not expire to the General Revenue Fund but shall remain in the account and be available for expenditure in succeeding fiscal years.

(c) The fund, to the extent that money is available, may be used solely to assist county commissions, municipalities, urban renewal authorities, land reuse agencies, and municipal land banks to remediate abandoned and dilapidated structures and properties by demolishing, deconstructing, or redeveloping them together with predevelopment expenses related thereto and other activities as authorized by a charitable grant or legislative appropriation. The fund may also be used to defray costs incurred by the Department of Environmental Protection in administering the provisions of this section. However, no more than five percent of money transferred from the Solid Waste Facility Closure Cost Assistance Fund may be used for administrative purposes.

(d) The Department of Environmental Protection, in consultation with the State Fire Marshal, Insurance Commissioner, the Auditor, the Secretary of Revenue, and the Legislative Auditor, shall conduct a review of the needs of county commissions, municipalities, urban renewal authorities, land reuse agencies, and municipal land banks. On or before December 31, 2023, the Department of Environmental Protection shall submit to the Joint Committee on Government and Finance a comprehensive report of that review, along with recommendations that are substantiated by the findings of the review that may be taken to meet the needs of the state in demolishing and redeveloping abandoned and dilapidated structures and properties.

(e) *Statewide contracts.* — The Department of Environmental Protection may cooperate with the Purchasing Division of the Department of Administration to establish one or more statewide contracts for services to be utilized by county commissions, municipalities, urban renewal authorities, land reuse agencies, and municipal land banks to implement the purposes of this section.

(f) The Department of Environmental Protection may propose rules for legislative approval in accordance with the provisions of [§29A-3-1 *et seq.* of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29A-3-1&originatingDoc=NC0C5EBA0B69911EBB30A9C6FC20748DC&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Search)), to include, but not be limited to, governing the disbursement of money from the fund, establishing the Reclamation of Abandoned and Dilapidated Properties Program, directing the distribution of money from the fund, entering contracts statewide contracts, and establishing criteria for eligibility to receive money from the fund.

(g) Nothing in this section shall be construed to limit, restrain, or otherwise discourage this state and its political subdivisions from disposing of abandoned and dilapidated structures in any other manner provided by the laws of this state.

Chapter 31. Corporations.

Article 18e. West Virginia Land Reuse Agency Authorization Act.

§ 31-18E-9. Acquisition of property.

(a) *Title to be held in its name*. — A land reuse agency or municipal land bank shall hold in its own name all real property it acquires.

(b) *Tax exemption.* — (1) Except as set forth in subdivision (2) of this subsection, the real property of a land reuse agency or municipal land bank and its income and operations are exempt from property tax.

(2) Subdivision (1) of this subsection does not apply to real property of a land reuse agency or municipal land bank after the fifth consecutive year in which the real property is continuously leased to a private third party. However, real property continues to be exempt from property taxes if it is leased to a nonprofit or governmental agency at substantially less than fair market value.

(c) *Methods of acquisition.* — A land reuse agency or municipal land bank may acquire real property or interests in real property by any means on terms and conditions and in a manner the land reuse agency considers proper: *Provided*, That a land reuse agency or municipal land bank may not acquire any interest in oil, gas, or minerals which have been severed from the realty.

(d) *Acquisitions from municipalities or counties.* — (1) A land reuse agency or municipal land bank may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts, and land contracts and may accept transfers from municipalities or counties upon terms and conditions as agreed to by the land reuse agency or municipal land bank and the municipality or county.

(2) A municipality or county may transfer to a land reuse agency or municipal land bank real property and interests in real property of the municipality or county on terms and conditions and according to procedures determined by the municipality or county as long as the real property is located within the jurisdiction of the land reuse agency or municipal land bank.

(3) An urban renewal authority, as defined in §16-18-4 of this code, located within a land reuse jurisdiction established under this article may, with the consent of the local governing body and without a redevelopment contract, convey property to the land reuse agency. A conveyance under this subdivision shall be with fee simple title, free of all liens and encumbrances.

(e) *Maintenance.* — A land reuse agency or municipal land bank shall maintain all of its real property in accordance with the statutes and ordinances of the jurisdiction in which the real property is located.

(f) *Prohibition*. — (1) Subject to the provisions of subdivision (2) of this subsection, a land reuse agency or municipal land bank may not own or hold real property located outside the jurisdictional boundaries of the entities which created the land reuse agency under §31-18E-4(c) of this code.

(2) A land reuse agency or municipal land bank may be granted authority pursuant to an intergovernmental cooperation agreement with a municipality or county to manage and maintain real property located within the jurisdiction of the municipality or county.

(g) *Acquisition of tax-delinquent properties.* — (1) Notwithstanding any other provision of this code to the contrary, if authorized by the land reuse jurisdiction which created a land reuse agency or municipal land bank or otherwise by intergovernmental cooperation agreement, a land reuse agency or municipal land bank may acquire an interest in tax-delinquent property through the provisions of chapter 11A of this code. If any unredeemed tract or lot or undivided interest in real estate offered for sale at public auction remain unsold following the auction, , the Auditor shall provide a list of all of said real estate within a land reuse or municipal land bank jurisdiction to the land reuse agency or municipal land bank and the land reuse agency or municipal land bank shall be given an opportunity to purchase the tax lien and pay the taxes, interest, and charges due for any unredeemed tract or lot or undivided interest therein as if the land reuse agency or municipal land bank purchased the tax lien at the tax sale.

(2) Notwithstanding any other provision of this code to the contrary, if authorized by the land reuse jurisdiction which created a land reuse agency or municipal land bank or otherwise by intergovernmental cooperation agreement, the land reuse agency or municipal land bank shall have the right of first refusal to purchase any tax-delinquent property which is within municipal limits, and meets one or more of the following criteria: (A) It has an assessed value of $50,000 or less; (B) there are municipal liens on the property that exceed the amount of back taxes owed in the current tax cycle; (C) the property has been on the municipality's vacant property registry for 24 consecutive months or longer; (D) the property was sold at a tax sale within the previous three years, was not redeemed, and no deed was secured by the previous lien purchaser; or (E) has been condemned: *Provided,* That the land reuse agency or municipal land bank satisfies the requirements of subdivision (3) of this subsection. A list of properties which meet the criteria of this subdivision shall regularly be compiled by the sheriff of the county, and a land reuse agency or municipal land bank may purchase any qualifying tax-delinquent property for an amount equal to the taxes owed and any related fees before such property is placed for public auction.

(3) When a land reuse agency or municipal land bank exercises a right of first refusal in accordance with subdivision (2) of this section, the land reuse agency or municipal land bank shall, within 15 days of obtaining a tax deed, provide written notice to all owners of real property that is adjacent to the tax-delinquent property. Any such property owner shall have a period of 120 days from the receipt of notice, actual or constructive, to express an interest in purchasing the tax-delinquent property from the land reuse agency or municipal land bank for an amount equal to the amount paid for the property plus expenses incurred by the land reuse agency or municipal land bank:*Provided*, That the land reuse agency or municipal land bank may refuse to sell the property to the adjacent property owner that expressed interest in the tax-delinquent property if that property owner or an entity owned by the property owner or its directors is delinquent on any state and local taxes or municipal fees on any of their property.

(4) Effective July 1, 2025, the provisions of subdivisions (2) and (3) of this subsection shall sunset and have no further force and effect.

(5) Prior to January 1, 2025, any land reuse agency or municipal land bank which exercises the authority granted by this subsection shall submit to the Joint Committee on Government and Finance a report on the entity's activities related to the purchase of tax-delinquent properties and any benefits realized from the authority granted by this subsection.

Article 21. West Virginia Land Stewardship Corporation.

§31-21-11. Land bank program.

(a) This article hereby authorizes the establishment of a voluntary state land bank program. Under this program, the corporation is authorized to acquire properties, hold title and prepare them for future use. Prior to acquiring any properties, the corporation shall conduct site appropriate assessments to determine the environmental conditions or issues associated with a particular property. The corporation shall not acquire title to any property unless all pending liens have been satisfied and released. Liabilities, including, but not limited to, environmental liabilities, shall not pass to the corporation by its acquisition of title. Participation in the land bank program under this article shall not relieve an entity of any of its liabilities.

(b) The objective of the land bank program is to assist state and local government efforts for economic development by accepting formerly used or developable properties and preparing the properties so they can be conveyed to other parties to locate or expand businesses and create or retain jobs in this state.

(c) The corporation may acquire by gift, devise, transfer, exchange, foreclosure, purchase or otherwise on terms and conditions and in a manner the corporation considers proper, real or personal property or rights or interests in real or personal property. The corporation may not accept by any conveyance or other action any liability for prior pollution or contamination liabilities that occurred on the property prior to its conveyance to the corporation.

(d) Real property acquired by the corporation may be by purchase and sale agreement, lease purchase agreement, installment sales contract, land contract or otherwise as may be negotiated or structured. The corporation may acquire real property or rights or interests in real property for any purpose the corporation considers necessary to carry out the purposes of this article including, but not limited to, one or more of the following purposes:

(1) Use or development of property the corporation has otherwise acquired;

(2) To facilitate the assembly of property for sale or lease to any other public or private person, including, but not limited to, a nonprofit or for-profit corporation;

(3) To conduct environmental remediation and monitoring activities.

(e) The corporation may also acquire by purchase, on terms and conditions and in a manner the corporation considers proper, property or rights or interests in property.

(f) The corporation may hold and own in its name any property acquired by it or conveyed to it by this state, a foreclosing governmental unit, a local unit of government, an intergovernmental entity created under the laws of this state, or any other public or private person.

(g) All deeds, mortgages, contracts, leases, purchases, or other agreements regarding property of the corporation, including agreements to acquire or dispose of real property, shall be approved by the board of directors and executed in the name of the corporation or any single purpose entity created by the board for the transaction.

(h) All property held by the corporation or a single purpose entity created by the board for a transaction shall be inventoried and classified by the corporation according to title status and suitability for use.

(i) A document including, but not limited to, a deed evidencing the transfer under this article of one or more parcels of property to the corporation by this state or a political subdivision of this state may be recorded within the office of the county clerk of the county in which the property is located without the payment of a fee.

(j) The corporation shall notify the county commission and county assessor in the affected county or counties upon receipt of an application for participation in the land bank program.