



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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2/1/2024 2:17:48 PM

Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Auditor TITLE-SERIES: 155-13
RULE TYPE: Procedural Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: Procedure to Register to Bid at Public Auctions
CITE STATUTORY AUTHORITY: 11A-3-45

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 03/04/2024 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Vincent Smith
ADDRESS: 1900 Kanawha Blvd E
Bldg 1, Room W-100
EMAIL: vincent.smith@wvsao.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

11A-3-45(e) provides the Auditor authority to promulgate procedural rules to effectuate the purpose of the statute. The statute requires the Auditor to hold a public auction to sell tax liens against properties with delinquent real estate taxes in accordance with Chapter 11A-3-1 et seq. 11A-3-45(c) requires potential bidders to register with the Auditor in advance of public auction or by executing a notarized affidavit the day of the public auction, affirming that the bidder meets the statutory requirements enumerated in sub-section (c) to bid at such public auction. Bidders that are domestic or foreign entities as defined chapters 31B, 31D, and 31E of the West Virginia Code must show proof at the time of registration that they are properly registered with the Secretary of State's office and authorized to conduct business in West Virginia.

Section 3 of the rule establishes the procedure to register with the Auditor either prior to or on the day of such public auction. Section 3 restates the eligibility requirements contained in 11A-3-45(c) and (d). Section 3.5 states that certain citizens or entities are not eligible to bid at public auctions pursuant to 11A-3-45a.

Section 4 of the rule allows the Auditor to deregister a registrant for failure to meet the eligibility requirements and the effect thereof, as allowed by 11A-3-45(c). Section 5 outlines the effect of deregistration. Section 6 establishes a procedure to cure the deregistration. Section 7 requires registration in order to purchase unsold lands that were not purchased at public auction and are therefore subject to sale without auction or additional advertising pursuant to 11A-3-48, which contains the same eligibility requirements to bid at a public auction under 11A-3-45.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

The rule is required to establish a procedure for potential bidders to register with the Auditor prior to bidding at a public auction held pursuant to 11A-3-45, or for properties sold pursuant to 11A-3-48, to ensure that potential bidders meet the statutory eligibility requirements.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

The rule and registration process is not expected to impact revenues collected through the tax sale process contained in 11A-3-1 et seq.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

The rule and registration process is not expected to impact revenues collected through the tax sale process contained in 11A-3-1 et seq.

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

The rule and registration process is not expected to impact revenues collected through the tax sale process contained in 11A-3-1 et seq.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

The rule will be implemented using existing office resources, including personnel and web services.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Vincent J Smith -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 155
PROCEDURAL RULE
STATE AUDITOR

SERIES 13
PROCEDURE TO REGISTER TO BID AT PUBLIC AUCTIONS

§155-13-1. General.

1.1. Scope. -- This procedural rule establishes the process to become eligible to bid at a Public Auction held pursuant to W. Va. Code § 11A-3-45.

1.2. Authority. -- W. Va. Code § 11A-3-45.

1.3. Filing Date. -- .

1.4. Effective Date. -- .

§155-13-2. Definitions.

2.1. "Affidavit" means a complete and notarized form, to be supplied by the Auditor, wherein the Registrant affirms that he or she meets the requirements to bid at a Public Auction contained in W. Va. Code § 11A-3-45, W. Va. Code § 11A-3-45a, and this rule. The Affidavit is available to download from the Auditor's website at www.wvsao.gov.

2.2. "Auditor" means the West Virginia State Auditor or his or her designee.

2.3. "Public Auction" means an auction conducted by the Auditor held pursuant to W. Va. Code § 11A-3-45.

2.4. "Registrant" means any person or legal entity that desires to bid at a Public Auction or bid for unsold lands subject to sale pursuant to W. Va. Code § 11A-3-48.

§155-13-3. Procedures to register to bid at public auction.

3.1. General. All Registrants must register in accordance with this rule in order to be eligible to bid at any Public Auction and affirm that he or she meets the requirements established under W. Va. Code § 11A-3-45, including:

3.1.1. Registrant has not failed to make a payment owed at a prior Public Auction.

3.1.2. Registrant is not, at the time of registration, delinquent in the payment of a real property tax, for which Registrant is the most recent owner to record, to any county in the State of West Virginia.

3.1.3. Registrant does not have a history of noncompliance with code enforcement violations issued by a county or municipality pursuant to W. Va. Code § 7-1-3ff and § 8-12-16.

3.1.4. At the time of registration, Registrant is not subject to legal proceedings in any county or municipality that are related to code enforcement violations regarding real property owned by Registrant.

3.1.5. Registrant has not, within the preceding five years prior to the Public Auction, failed to comply with a valid raze or repair order (or any other similar order) issued by a county or municipality.

3.2. Registration of Legal Entities. Any Registrant that is a domestic or foreign entity as defined in chapters 31B, 31D, and 31E of the West Virginia Code must verify at the time of registration that it is properly registered with the West Virginia Secretary of State's office and is authorized to conduct business in West Virginia.

3.3. Registration prior to day of sale. Registrants may register at any time prior to the Public Auction by any of the following methods.

3.3.1. Registrants may register via an online portal maintained by the Auditor, available at www.wvsao.gov.

3.3.2. Registrants may submit an Affidavit to the Auditor by mail or courier. Registrants are responsible for ensuring that the Affidavit is delivered to the Auditor prior to any Public Auction in which the Registrant wishes to participate.

3.3.3. Registrants may submit an Affidavit in person to the Auditor's County Collections Division during its normal business hours.

3.4. Registration day of sale. Registrants may register the same day as the Public Auction by completing an Affidavit. Employees of the Auditor will be available to provide the Affidavit and assist with its completion and execution.

3.5. Persons or entities ineligible to bid at Public Auction. Citizens of or entities organized in or controlled by citizens or governments of any country designated as a Country of Particular Concern by the Department of State of the United States of America are ineligible to participate in any Public Auction.

§155-13-4. Deregistration.

4.1. A Registrant may be deregistered by the Auditor at any time if it is discovered that the Registrant does not meet the requirements to bid at a Public Auction contained in W. Va. Code § 11A-3-45, W. Va. Code § 11A-3-45a, and this rule.

4.2. A deregistered Registrant will be notified of the deregistration and the reasons therefor by the Auditor in writing. All the Registrant's current or pending bids or sales will be cancelled or rejected.

§155-13-5. Effect of deregistration.

5.1. Any Registrant that is deregistered is ineligible to bid at any Public Auction. Any bids submitted by a Registrant who is deregistered will be rejected by the Auditor and any sales pending will be cancelled.

§155-13-6. Procedure to cure deregistration.

6.1. Any Registrant that is deregistered due to noncompliance with Sections 3.1.1, 3.1.2, 3.1.4, 3.1.5, or 3.2 may cure the deregistration by demonstrating to the Auditor by clear evidence that the Registrant has become in compliance with the eligibility requirements contained in Sections 3.1.1, 3.1.2, 3.1.4, 3.1.5, and 3.2.

6.2. The Auditor may refuse to reregister any Registrant that has knowingly registered without meeting the eligibility requirements contained in W. Va. Code § 11A-3-45, W. Va. Code § 11A-3-45a, and this rule.

§ 155-13-7. Unsold lands subject to sale without auction or additional advertising.

7.1. In order to bid on unsold lands subject to sale without auction or additional advertising pursuant to W. Va. Code § 11A-3-48, Registrants must register with the Auditor in accordance with the provisions of this rule.