

2018 -- S 2091

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO TAXATION -- TAX SALES

Introduced By: Senators Archambault, Lombardi, McCaffrey, Lynch Prata, and Ciccone

Date Introduced: January 18, 2018

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-9-1, 44-9-5, 44-9-12, 44-9-13, 44-9-21, 44-9-24, 44-9-28, 44-9-
2 29, 44-9-30, 44-9-31 and 44-9-43 of the General Laws in Chapter 44-9 entitled "Tax Sales" are
3 hereby amended to read as follows:

4 **44-9-1. Tax liens on real estate.**

5 (a) Taxes assessed against any person in any city or town for either personal property or
6 real estate shall constitute a lien on the real estate. The lien shall arise and attach as of the date of
7 assessment of the taxes, as defined in § 44-5-1.

8 (b) The lien shall terminate at the expiration of three (3) years ~~thereafter~~ after it first
9 arises if the estate has in the meantime been alienated and the instrument alienating the estate has
10 been recorded and no action for the enforcement of the lien has commenced; otherwise, it shall
11 continue until a recorded alienation of the estate. The lien shall be superior to any other lien,
12 encumbrance, or interest in the real estate whether by way of mortgage, attachment, receivership
13 order, or otherwise, except easements, ~~and~~ restrictions and prior tax lien(s) held by Rhode Island
14 Housing and Mortgage Finance Corporation. A final decree foreclosing all rights of redemption
15 under this title shall constitute an alienation within the meaning of this section. The tax sale shall
16 constitute an enforcement of the lien, but itself shall not constitute an alienation.

17 **44-9-5. Agreements between cities or towns and fire districts, water districts, sewer**
18 **districts, road districts, lighting districts, and lien priorities.**

19 (a) Cities and towns and fire districts, water districts, sewer districts, road districts and

1 lighting districts are authorized to make agreements with respect to the parcel of property upon
2 which they respectively own tax liens in respect to the disposition of the liens, of the parcel of
3 property subject to the liens, and of the proceeds of a tax sale of the property.

4 (b) If no agreement is in place, the chronological order in which the tax sale was
5 conducted shall determine the priority of the tax sale lien as to other tax sale liens. The tax sale
6 lien with priority shall be entitled to redeem subsequent tax sale liens. If redemption is not
7 exercised, a subsequent tax sale lien may be used to foreclose a prior tax sale lien, whereas a prior
8 tax sale lien cannot foreclose a subsequent one.

9 **44-9-12. Collector's deed -- Rights conveyed to purchaser -- Recording.**

10 (a) The collector shall execute and deliver to the purchaser a deed of the land stating the
11 cause of sale; the price for which the land was sold; the places where the notices were posted; the
12 name of the newspaper in which the advertisement of the sale was published; the names and
13 addresses of all parties who were sent notice in accordance with the provisions of § 44-9-10 and
14 44-9-11; the residence of the grantee; and if notice of the sale was given to the Rhode Island
15 housing and mortgage finance corporation and/or to the department of elderly affairs under the
16 provisions of § 44-9-10. The deed shall convey the land to the purchaser, subject to the right of
17 redemption. The conveyed title shall, until redemption or until the right of redemption is
18 foreclosed, be held as security for the repayment of the purchase price with all intervening costs,
19 terms imposed for redemption, and charges, with interest; and the premises conveyed, both before
20 and after either redemption or foreclosure, shall also be subject to, and have the benefit of, all
21 easements and restrictions lawfully existing in, upon, or over the land or appurtenant to the land.
22 The deed is not valid against any intervening interests unless recorded within sixty (60) days after
23 the sale. If the deed is recorded, it is prima facie evidence of all facts essential to the validity of
24 the title conveyed by the deed. It shall be the duty of the collector to record the deed within sixty
25 (60) days of the sale and to forward said deed promptly to the tax sale purchaser. The applicable
26 recording fee shall be paid by the purchaser. The purchaser shall be reimbursed for said fee upon
27 redemption by the redeeming party, if any. Except as provided, no sale shall give to the purchaser
28 any right to either the possession, or the rents or profits of the land until the expiration of one year
29 after the date of the sale, nor shall any sale obviate or transfer any responsibility of an owner of
30 property to comply with any statute of this state or ordinance of any municipality governing the
31 use, occupancy, or maintenance or conveyance of property until the right of redemption is
32 foreclosed.

33 (b) The rents to which the purchaser shall be entitled after the expiration of one year and
34 prior to redemption shall be those net rents actually collected by the former fee holder or a

1 mortgagee under an assignment of rents. Rents shall not include mere rental value of the land, nor
2 shall the purchaser be entitled to any rent for owner-occupied, single-unit residential property.
3 For purposes of redemption, net rents shall be computed by deducting from gross rents actually
4 collected any sums expended directly or on behalf of the tenant from whom the rent was
5 collected. Such expenditure shall include utilities furnished, repairs made to the tenanted unit, and
6 services provided for the benefit of the tenant. However, mortgagee payments, taxes, and sums
7 expended for general repair and renovation (i.e. capital improvements) shall not be deductible
8 expenses in the computation of the rent.

9 (c) This tax title purchaser shall not be liable for any enforcement or penalties arising
10 from violations of environmental or minimum-housing standards prior to the expiration of one
11 year from the date of the tax sale, or five (5) years from the date of the tax sale if the Rhode
12 Island housing and mortgage finance corporation is the tax title purchaser pursuant to § 44-9-8.3,
13 except for violations that are the result of intentional acts by the tax sale purchaser or his or her
14 agents.

15 (d) Upon the expiration of one year after the date of the sale, the tax title holder shall be
16 jointly and severally liable with the owner for all responsibility and liability for the property and
17 shall be responsible to comply with any statute of this state or ordinance of any municipality
18 governing the use, occupancy, or maintenance or conveyance of the property even prior to the
19 right of redemption being foreclosed; except, however, that if the Rhode Island housing and
20 mortgage finance corporation is the tax title holder pursuant to § 44-9-8.3, then joint and several
21 liability shall arise upon the expiration of five (5) years after the date of the sale. Nothing in this
22 section shall be construed to confer any liability upon a city or town that receives tax title as a
23 result of any bids being made for the land offered for sale at an amount equal to the tax and
24 charges.

25 (e) In the event that the tax lien is acquired by the Rhode Island housing and mortgage
26 finance corporation, and said corporation has paid the taxes due, title shall remain with the owner
27 of the property, subject to the right of the corporation to take the property in its own name,
28 pursuant to applicable statutes and any regulations duly adopted by the corporation. Upon such
29 notice by the corporation, the collector shall execute and deliver a deed to the corporation as
30 herein provided.

31 **44-9-13. Entry by collector not required -- Recording of tax sale list.**

32 (a) No entry upon the land by the collector shall be deemed necessary, but the collector in
33 all cases of sales of real estate shall deliver to the clerk's or recorder's office a list of those
34 properties sold at tax sale which the clerk or recorder shall record or post in the land evidence

1 records for their city or town within five (5) business days after the sale of real estate. The
2 recorded or posted list shall include the assessed owner's name, the address of the property, and
3 the assessor's plat and lot, and the recorded or posted list shall be conclusive evidence of the facts
4 stated in the list.

5 (b) No properties shall be sold at tax sale to any bidder who is delinquent in the paying of
6 taxes or is an officer, more than ten percent (10%) shareholder or owner of a partnership or
7 corporation or limited liability company that is delinquent in the paying of taxes on any property
8 located within the city or town in which the tax sale is held, unless the bidder has agreed to a
9 written payment plan approved by the collector and is current on any and all payments required
10 by the plan; provided, however, that no bidder shall be deemed to be delinquent for the purposes
11 of this subsection if that bidder owes property taxes solely on properties wherein the right of
12 redemption under § 44-9-25 has not yet been foreclosed. The collector may require a bidder or an
13 authorized officer or partner of the bidder to execute an affidavit that the bidder is qualified under
14 this provision.

15 **44-9-21. Redemption from purchaser other than city or town.**

16 Any person may redeem by paying or tendering to a purchaser, other than the city or
17 town, his or her legal representatives, or assigns, or to the person to whom an assignment of a tax
18 title has been made by the city or town, at any time prior to the filing of the petition for
19 foreclosure, in the case of a purchaser the original sum and any intervening taxes which have
20 been paid to the municipality plus interest thereon at the rate of one percent (1%) per month and
21 costs paid by him or her, plus a penalty as provided in § 44-9-19, or in the case of an assignee of a
22 tax title from a city or town, the amount stated in the instrument of assignment, plus the above-
23 mentioned penalty. He or she may also redeem the land by paying or tendering to the treasurer the
24 sum which he or she would be required to pay to the purchaser or to the assignee of a tax title, in
25 which case the city or town treasurer shall be constituted the agent of the purchaser or assignee
26 until the expiration of one year from the date of sale and not thereafter. The right of redemption
27 may be exercised only by those entitled to notice of the sale pursuant to §§ 44-9-10 and 44-9-11.

28 **44-9-24. Title absolute after foreclosure of redemption -- Jurisdiction of**
29 **proceedings.**

30 The title conveyed by a tax collector's deed shall be absolute after foreclosure of the right
31 of redemption by decree of the superior court as provided in this chapter. Notwithstanding the
32 rules of civil procedure or the provisions of chapter 21 of title 9, no decree shall be vacated
33 except in a separate action instituted within ~~one-year~~ six (6) months following entry of the decree
34 and in no event for any reason, later than ~~one-year~~ six (6) months following the entry of decree.

1 Furthermore, the action to vacate shall only be instituted for inadequacy of notice of the petition
2 amounting to a denial of due process or for the invalidity of the tax sale because the taxes for
3 which the property was sold had been paid or were not due and owing because the property was
4 exempt from the payment of such taxes. The superior court shall have exclusive jurisdiction of
5 the foreclosure of all rights of redemption from titles conveyed by a tax collector's deed, and the
6 foreclosure proceedings shall follow the course of equity in a proceeding provided for in §§ 44-9-
7 25 -- 44-9-33.

8 **44-9-28. Order as to parties in default.**

9 After the fixed return day, to be at least twenty (20) days after the time of the actual
10 issuance of notice, the court ~~shall~~, if satisfied that the notice has been properly given, on motion
11 of the petitioner shall enter an order defaulting all persons failing to ~~appear~~ file a timely answer,
12 and decreeing that the petition as to them be taken as confessed (Form 8).

13 **44-9-29. Redemption by party to foreclosure proceedings.**

14 Any person claiming an interest, on or before the return day or within that further time as
15 may on motion be allowed by the court, providing said motion is made prior to the fixed return
16 day, shall, if he or she desires to redeem, file an answer setting forth his or her right in the land,
17 and an offer to redeem upon the terms as may be fixed by the court. ~~The~~ Where an answer has
18 been timely filed, the court shall hear the parties, and may in its discretion make a finding
19 allowing the party to redeem, within a time fixed by the court, upon payment to the petitioner of
20 an amount sufficient to cover the original sum, costs, penalties, and all subsequent taxes, costs,
21 and interest to which the petitioner may be entitled, together with the costs of the proceeding and
22 counsel fee as the court deems reasonable. The court may impose other terms as justice and the
23 circumstances warrant.

24 **44-9-30. Decree barring redemption.**

25 If a default is entered under § 44-9-28, or if redemption is not made within the time and
26 upon the terms fixed by the court under § 44-9-29, or if at the time fixed for the hearing the
27 person claiming the right to redeem does not appear to urge his or her claim, after having filed a
28 timely answer, or if upon hearing the court determines that the facts shown do not entitle the
29 person to redeem, a decree shall be entered which shall forever bar all rights of redemption.

30 **44-9-31. Contest of validity of tax title.**

31 If a person claiming an interest desires to raise any question concerning the validity of a
32 tax title, the person shall do so by answer filed in the proceeding on or before the return day, or
33 within that further time as may on motion be allowed by the court, providing said motion is made
34 prior to the fixed return date, or else be forever barred from contesting or raising the question in

1 any other proceeding. He or she shall also file specifications setting forth the matters upon which
2 he or she relies to defeat the title; and unless the specifications are filed, all questions of the
3 validity or invalidity of the title, whether in the form of the deed or proceedings relating to the
4 sale, shall be deemed to have been waived. Upon the filing of the specifications, the court shall
5 hear the parties and shall enter a decree in conformity with the law on the facts found.

6 **44-9-43. Refund of purchase price when title based on collector's sale, treasurer's**
7 **assignment, or sale without foreclosure adjudged invalid.**

8 (a) If, as the result of a petition, the ~~petitioner's~~ title based on a collector's sale, treasurer's
9 assignment, or sale without foreclosure is determined to be invalid by the superior court because
10 of errors or irregularities in the tax proceedings upon which it was based, the clerk, upon request,
11 shall issue a certificate to that effect. The treasurer of the city or town where the land affected by
12 the title is situated, upon receipt of a deed from the petitioner conveying all of the interest which
13 he or she may have under it, together with the certificate, shall refund to the holder the amount
14 paid, therefore plus statutory interest at the rate of one percent (1%) per month from the date of
15 payment until the date of refund, notwithstanding the provisions of § 45-15-5. The taxing
16 authority may recover any interest paid to a tax sale purchaser under this section from the
17 delinquent assessed owner of the property as if the tax sale of the property had not been held.

18 (b) If, prior to the filing of a petition, the title based on a collector's sale, treasurer's
19 assignment, or sale without foreclosure is determined to be invalid by mutual agreement of the
20 municipality and tax lien holder, because of errors or irregularities in the tax proceedings upon
21 which it was based, the treasurer of the city or town where the land affected by the title is
22 situated, upon receipt of a deed from the tax lien holder conveying all of the interest which they
23 may have under it, shall refund to the holder the amount paid therefore plus statutory interest at
24 the rate of one percent (1%) per month from the date of payment until the date of refund,
25 notwithstanding the provisions of § 45-15-5. The taxing authority may recover any interest paid
26 to a tax sale purchaser under this section from the delinquent assessed owner of the property as if
27 the tax sale of the property had not been held. Nothing in this subsection shall abrogate the
28 authority of a municipality's tax collector to redeem from a tax sale purchaser, in accordance with
29 § 44-9-21, before an action to foreclose the right of redemption under section 25 of this chapter
30 has been filed, any property sold at tax sale where the collector determines administrative error
31 has occurred.

32 SECTION 2. Chapter 44-9 of the General Laws entitled "Tax Sales" is hereby amended
33 by adding thereto the following section:

34 **44-9-25.3. Expedited foreclosure of the rights of redemption on account of vacancy.**

1 (a) Notwithstanding the provisions of §§ 44-9-25 and 44-9-25.1 following a sale of
2 property for taxes or fees, whomever then holds the title thereby acquired may bring a petition to
3 the superior court for the foreclosure of all rights of redemption after the passage of sixty (60)
4 days from the date of recording of the tax sale deed upon a finding by the superior court that the
5 structure(s) thereon are vacant and either vandalized and/or in a non-code compliant condition. A
6 certificate from the local building official attesting to the vacant and vandalized and/or non-code
7 compliant condition of such structure(s) shall be prima facie evidence of such condition, but
8 additional evidence may be presented to the court to affirm the conditions alleged in the petition.
9 A municipality, by and through its building official, may choose to issue a certificate as
10 referenced in this section, however, neither a municipality nor its building official are obligated
11 under this section to issue said certificate. The issuance of said certificate is discretionary and not
12 mandatory.

13 (b) In the event that a petition to foreclose the right of redemption is filed under the
14 provisions of this section, notice of the filing of said petition shall be given to the taxing authority
15 that conducted the sale by in person service, upon the taxing authority's collector, thereby ending
16 the period during which the taxpayer may redeem through the taxing authority.

17 (c) A petitioner who has utilized this expedited foreclosure process shall commence, or
18 cause to be commenced, substantial rehabilitation of the structure(s) on such parcel within six (6)
19 months following the entry of the final foreclosure decree or be immediately subject to the non-
20 utilization penalty set forth in chapter 5.1 of title 44.

21 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION -- TAX SALES

1 This act would expedite the foreclosure procedure on vacant property, and would amend
2 the provisions of the general laws on tax sales in order to, among other things, establish priorities
3 of tax liens, clarify the effect of late recordings and simplify procedures in the event of a void
4 sale.

5 This act would take effect upon passage.

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