

LEGISLATIVE BILL 370

Approved by the Governor March 7, 2012

Introduced by Wightman, 36.

FOR AN ACT relating to revenue and taxation; to amend sections 77-1824, 77-1825, 77-1831, 77-1832, 77-1833, 77-1834, 77-1835, and 77-1837, Reissue Revised Statutes of Nebraska; to change provisions relating to collection of delinquent real property taxes by sale of real property; to define a term; to provide for applicability; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 77-1824, Reissue Revised Statutes of Nebraska, is amended to read:

77-1824 The owner or occupant of any real property sold for taxes or any person having a lien thereupon or interest therein may redeem the same. For owner-occupied real property, the right of redemption expires forty-five days after the date of application for the tax deed, and for all other real property, the right of redemption expires when the purchaser files an application for tax deed with the county treasurer. A redemption shall not be accepted by the county treasurer, or considered valid, unless received prior to the close of business forty-five days after the date of application for the tax deed for owner-occupied real property or prior to the close of business on the day the application for the tax deed is received by the county treasurer for other real property. Redemption shall be accomplished at any time before the delivery of tax deed by the county treasurer by paying the county treasurer for the use of such purchaser or his or her heirs or assigns the sum mentioned in his or her certificate, with interest thereon at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date of purchase to date of redemption, together with all other taxes subsequently paid, whether for any year or years previous or subsequent to the sale, and interest thereon at the same rate from date of such payment to date of redemption. In addition, if owner-occupied real property is redeemed after the day the purchaser files an application for a tax deed, the owner shall pay a redemption fee equal to twenty percent of all other amounts due.

Sec. 2. For purposes of sections 77-1801 to 77-1863, owner-occupied real property means real property that is actually occupied by the record owner of the real property, the surviving spouse of the record owner, or a minor child of the record owner.

Sec. 3. Section 77-1825, Reissue Revised Statutes of Nebraska, is amended to read:

77-1825 The county treasurer shall enter a memorandum of ~~such~~ redemption of real property in the sales book, and ~~such treasurer~~ shall give a receipt therefor to the person redeeming the same, for which ~~he or she~~ the county treasurer may charge a fee of two dollars. The county treasurer shall send written notice of redemption, by registered or certified mail, to the holder of the county treasurer's certificate of tax sale, ~~provided if~~ the post office address of the holder of the certificate is filed in the office of the county treasurer. The redemption money, including any redemption fee under section 77-1824, shall be paid to or upon the order of the holder on return of the certificate.

Sec. 4. Section 77-1831, Reissue Revised Statutes of Nebraska, is amended to read:

77-1831 (1) No purchaser at any sale for taxes or his or her assignees shall be entitled to a tax deed from the county treasurer for the real property so purchased unless such purchaser or assignee, at least three months before applying for the tax deed, serves or causes to be served a notice stating when such purchaser purchased the real property, the description thereof, in whose name assessed, for what year taxed or specially assessed, and that, after the expiration of at least three months from the date of service of such notice, the tax deed will be applied for.

The notice shall include:

(a) The following statement in sixteen-point type: UNLESS YOU ACT YOU WILL LOSE THIS PROPERTY;

(b) The date when the purchaser purchased the real property sold by the county for taxes;

(c) The description of the real property;

(d) In whose name the real property was assessed;

(e) The amount of taxes represented by the tax sale certificate,

the year the taxes were levied or assessed, and any subsequent taxes paid and interest accrued as of the date the notice is signed by the purchaser; and

(f) The following statements:

(i) That the issuance of a tax deed is subject to the right of redemption under sections 77-1824 to 77-1830;

(ii) The right of redemption requires payment to the county treasurer, for the use of such purchaser, or his or her heirs or assigns, the amount of taxes represented by the tax sale certificate for the year the taxes were levied or assessed and any subsequent taxes paid and interest accrued as of the date payment is made to the county treasurer. In addition, if the real property is owner-occupied real property and the redemption occurs after the day the purchaser files an application for a tax deed, a redemption fee equal to twenty percent of all other amounts due must be paid; and

(iii) The right of redemption expires at the close of business forty-five days after the date of application for the tax deed for owner-occupied real property or at the close of business on the day the purchaser files an application for a tax deed with the county treasurer for all other real property.

(2) In addition to the notice required under subsection (1) of this section, no purchaser of owner-occupied real property at any sale for taxes or his or her assignees shall be entitled to a tax deed from the county treasurer for the real property so purchased unless such purchaser or assignee, upon application for the deed, serves or causes to be served a notice that, after the expiration of forty-five days after the date of application for the tax deed, the tax deed will be executed and delivered by the county treasurer unless the owner redeems the real property.

The notice shall include:

(a) The date when the purchaser purchased the real property sold by the county for taxes;

(b) The description of the real property;

(c) In whose name the real property was assessed;

(d) The amount of taxes represented by the tax sale certificate, the year the taxes were levied or assessed, and any subsequent taxes paid and interest accrued as of the date the notice is signed by the purchaser plus the amount of the redemption fee; and

(e) The following statements:

(i) That the issuance of a tax deed is subject to the right of redemption under sections 77-1824 to 77-1830;

(ii) The right of redemption requires payment to the county treasurer, for the use of such purchaser, or his or her heirs or assigns, the amount of taxes represented by the tax sale certificate for the year the taxes were levied or assessed and any subsequent taxes paid and interest accrued as of the date payment is made to the county treasurer. In addition, if the real property is owner-occupied real estate and the redemption occurs after the day the purchaser files an application for a tax deed, a redemption fee equal to twenty percent of all other amounts due must be paid; and

(iii) The right of redemption expires forty-five days after the date of application for the tax deed for owner-occupied real property.

Sec. 5. Section 77-1832, Reissue Revised Statutes of Nebraska, is amended to read:

77-1832 (1) Service of the notice provided by subsection (1) of section 77-1831 shall be made by: ~~certified~~

(a) Personal or residence service as described in section 25-505.01 upon every person in actual possession or occupancy of the real property and upon the person in whose name the title to the real property appears of record who can be found in this state; or

(b) Certified mail, return receipt requested, upon the person in whose name the title to the real property appears of record who cannot be found in this state or who cannot be served by personal or residence service to the address where the property tax statement was mailed and upon every encumbrancer of record in the office of the register of deeds of the county. Whenever the record of a lien shows the post office address of the lienholder, notice shall be sent by certified mail, return receipt requested, to the holder of such lien at the address appearing of record.

(2) Service of the notice pursuant to subsection (2) of section 77-1831 shall be made by certified mail upon the owner of owner-occupied real property.

(3) Personal or residence service shall be made by the county sheriff of the county where service is made or by a person authorized by section 25-507. The sheriff or other person serving the notice shall be entitled to the statutory fee prescribed in section 33-117.

Sec. 6. Section 77-1833, Reissue Revised Statutes of Nebraska, is

amended to read:

77-1833 The service of ~~notice~~ notices provided by section 77-1832 shall be proved by affidavit, and the notice and affidavit shall be filed and preserved in the office of the county treasurer. The purchaser or assignee shall also affirm in the affidavit that a title search was conducted to determine those persons entitled to notice pursuant to such section. The certified mail return receipt shall be filed with and accompany the return of service. The affidavit shall be filed with the application for the tax deed pursuant to section 77-1837. For each service of such notice, a fee of one dollar shall be allowed. The amount of such fees shall be noted by the county treasurer in the sales book opposite the real property described in the notice and shall be collected by the county treasurer in case of redemption for the benefit of the holder of the certificate.

Sec. 7. Section 77-1834, Reissue Revised Statutes of Nebraska, is amended to read:

77-1834 If the person in whose name the title to the real property appears of record in the office of the register of deeds in the county or if the encumbrancer in whose name an encumbrance on the real property appears of record in the office of the register of deeds in the county cannot, upon diligent inquiry, be found, ~~then such~~ the purchaser or his or her assignee shall publish the notice in some newspaper published in the county and having a general circulation in the county or, if no newspaper is printed in the county, then in a newspaper published in this state nearest to the county in which the real property is situated.

Sec. 8. Section 77-1835, Reissue Revised Statutes of Nebraska, is amended to read:

77-1835 The notice provided by section 77-1834 shall be inserted three consecutive weeks, ~~the first time not more than five months and the last time not less than three months before the time of redemption shall expire.~~ applying for the tax deed. Proof of publication shall be made by filing in the county treasurer's office the affidavit of the publisher, manager, or other employee or foreman of such newspaper, that to his or her personal knowledge, ~~said the~~ notice was published for the time and in the manner provided ~~herein,~~ in this section, setting out a copy of the notice and the date upon which the same was published. ~~Such affidavit~~ The purchaser or assignee shall also file an affidavit in the office that a title search was conducted to determine those persons entitled to notice pursuant to such section. The affidavits shall be filed with the application for the tax deed pursuant to section 77-1837. The affidavits shall be preserved as a part of the files of said the office. Any publisher, manager, or employee or foreman of a newspaper knowingly or negligently making a false affidavit regarding any such matters shall be guilty of perjury, and shall be punished accordingly. Section 25-520.01 does not apply to publication of notice pursuant to section 77-1834.

Sec. 9. Section 77-1837, Reissue Revised Statutes of Nebraska, is amended to read:

77-1837 (1) At any time within six months after the expiration of three years from after the date of sale of any real estate for taxes or special assessments, if such real estate has not been redeemed, the county treasurer, on request, application, on production of the certificate of purchase, and upon compliance with the provisions of sections 77-1801 to 77-1863 and sections 2 and 10 of this act, shall execute and deliver to the purchaser or his or her heirs or assigns a deed of conveyance for the real estate described in such certificate as provided in this section. The failure of the county treasurer to issue the deed of conveyance if requested within the timeframe provided in this section shall not impair the validity of such deed if there has otherwise been compliance with the provisions of sections 77-1801 to 77-1863 and sections 2 and 10 of this act.

(2) If the tax deed is for owner-occupied real property, the county treasurer shall not execute and deliver the tax deed for forty-five days after the time specified in subsection (1) of this section until the right of redemption expires. If the real property is not owner-occupied real property or if forty-five days have passed since the time specified in subsection (1) of this section for owner-occupied real property and the right of redemption has expired, the county treasurer shall execute and deliver the tax deed previously executed to the purchaser or his or her heirs or assigns.

Sec. 10. The laws in effect on the date of the issuance of a tax sale certificate govern all matters related to tax deeds proceedings, including noticing and application, and foreclosure proceedings. Changes in law shall not apply retroactively with regard to the tax sale certificates previously issued.

Sec. 11. Original sections 77-1824, 77-1825, 77-1831, 77-1832,

77-1833, 77-1834, 77-1835, and 77-1837, Reissue Revised Statutes of Nebraska, are repealed.