

LEGISLATIVE BILL 463

Approved by the Governor March 27, 2019

Introduced by Williams, 36; Brandt, 32; Briese, 41; Chambers, 11; Clements, 2; Dorn, 30; Friesen, 34; Groene, 42; Kolterman, 24; Stinner, 48; McCollister, 20.

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 77-1802, 77-1831, 77-1832, 77-1833, 77-1834, 77-1835, 77-1837, and 77-1837.01, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to real property sold for delinquent taxes, the process for issuing treasurer's tax deeds, and tax sale certificates; to harmonize provisions; to repeal the original sections; and to outright repeal section 77-1824.01, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 77-1802, Reissue Revised Statutes of Nebraska, is amended to read:

77-1802 The county treasurer shall, not less than four nor more than six weeks prior to the first Monday of March in each year, make out a list of all real property subject to sale and the amount of all delinquent taxes against each item, ~~describing the property as it is described on the tax list,~~ with an accompanying notice stating that so much of such property described in the list as may be necessary for that purpose will, on the first Monday of March next thereafter, be sold by such county treasurer at public auction at his or her office for the taxes, interest, and costs thereon. In making such list, the county treasurer shall describe the property as it is described on the tax list and shall include the property's parcel number, if any.

Sec. 2. Section 77-1831, Reissue Revised Statutes of Nebraska, is amended to read:

77-1831 ~~No Except as otherwise provided in this section, 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 that states, after the expiration of at least three months from the date of service of such notice, the tax deed will be applied for. In the case of owner-occupied property, 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 and forty-five days before applying for the tax deed, serves or causes to be served a notice that states, after the expiration of at least three months and forty-five days from the date of service of such notice, the tax deed will be applied for.~~

The notice shall include:

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

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

(3) The description of the real property;

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

(5) The amount of taxes represented by the tax sale certificate, the year the taxes were levied or assessed, and a statement that subsequent taxes may have been paid and interest may have accrued as of the date the notice is signed by the purchaser; and

(6) The following statements:

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

(b) 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; and

(c) ~~The Except as provided for 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, right of redemption expires at the close of business on the date of application for the tax deed, and a deed may be applied for after the expiration of three months from the date of service of this notice. For 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, a deed may be applied for after the expiration of three months and forty-five days after the service of this notice.~~

Sec. 3. Section 77-1832, Reissue Revised Statutes of Nebraska, is amended to read:

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

(a) Personal or residence, ~~certified mail, or designated delivery service as described in section 25-505.01 upon a 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. If a person in actual possession or occupancy of the real property cannot be served by personal or residence service, service of the notice shall be made upon such person by certified mail service or designated delivery service as described in section 25-505.01, and the notice shall be sent to the address of the property. If the person in whose name the title to the real property appears of record cannot be found in this state or if such person cannot be served by personal or residence service, service of the notice shall be made upon such person by certified mail service or designated delivery service as described in section 25-505.01, and the notice shall be sent to the name and address to which the property tax statement was mailed who qualifies as an owner-occupant under section 77-1824.01; and or~~

~~(b) Certified mail or designated delivery service as described in section 25-505.01 upon every encumbrancer of record found by the title search required in section 77-1833. The notice shall be sent to the encumbrancer's name and address appearing of record as shown in the encumbrance filed with the register of deeds. ÷~~

~~(i) The person in whose name the title to the real property appears of record who does not qualify as an owner-occupant under section 77-1824.01. The notice shall be sent to the name and address to which the property tax statement was mailed; and~~

~~(ii) Every encumbrancer of record in the office of the register of deeds of the county. The notice shall be sent to the encumbrancer's name and address appearing of record as shown in the encumbrance filed with the register of deeds.~~

~~(2) 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. Within twenty days after the date of request for service of the notice, the person serving the notice shall (a) make proof of service to the person requesting the service and state the time and place of service including the address if applicable, the name of the person with whom the notice was left, and the method of service or (b) return the proof of service with a statement of the reason for the failure to serve. Failure to make proof of service or delay in doing so does not affect the validity of the service.~~

~~Sec. 4. Section 77-1833, Reissue Revised Statutes of Nebraska, is amended to read:~~

~~77-1833 The service of notice 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 by a registered abstractor to determine those persons entitled to notice pursuant to such section. If personal or residence service is used, the receipt or returns provided by the person authorized in subsection (2) of section 77-1832 to carry out such service shall be filed with and accompany the affidavit. If certified mail or designated delivery service is used, the certified mail return receipt or a copy of the signed delivery receipt shall be filed with and accompany the affidavit return of service. The affidavit, a copy of the notice, and a copy of such title search 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 record 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. 5. Section 77-1834, Reissue Revised Statutes of Nebraska, is amended to read:~~

~~77-1834 If any the person or encumbrancer who is entitled to notice under subsection (1) of section 77-1832 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, the purchaser or his or her assignee shall publish the notice in a some newspaper of published in the county and having a general circulation in the county which has been designated by the county board in the year publication is required under this section 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. 6. Section 77-1835, Reissue Revised Statutes of Nebraska, is amended to read:~~

~~77-1835 The notice provided by section 77-1834 shall be published inserted three consecutive weeks, the last time not less than three months before 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 of such newspaper, affirming that to his or her personal knowledge, the notice was published for the time and in the manner provided in this section, setting out a copy of the notice and the date upon which the same was published. The purchaser or assignee shall also file in the county treasurer's office an affidavit affirming in the office that a title search was conducted by a registered abstractor to determine those persons entitled to notice pursuant to such section 77-1832 and a copy of such title search. The affidavits, the copy of the notice, and the copy of the title search shall be filed with the application for the tax deed pursuant to section 77-1837. Such~~

~~documents~~ ~~The affidavits~~ shall be preserved as a part of the files of the office. Any publisher, manager, or employee 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. 7. Section 77-1837, Reissue Revised Statutes of Nebraska, is amended to read:

77-1837 (1) ~~At any time within nine months after the expiration of three years after the date of sale of any real estate for taxes or special assessments, if such real estate has not been redeemed, the purchaser or his or her assignee may apply to the county treasurer for a tax deed for the real estate described in such purchaser's or assignee's tax sale certificate. The county treasurer county treasurer, on application, on production of the certificate of purchase, and upon compliance with sections 77-1801 to 77-1863, shall execute and deliver a deed of conveyance for the real estate described in such tax sale certificate if he or she has received the following: as provided in this section.~~

~~(a) The tax sale certificate;~~

~~(b) The issuance fee for the tax deed and the fee of the notary public or other officer acknowledging the tax deed, as required under section 77-1823;~~

~~(c) For any notice provided pursuant to section 77-1832, the affidavit proving service of notice, the copy of the notice, and the copy of the title search required under section 77-1833; and~~

~~(d) For any notice provided by publication pursuant to section 77-1834, the affidavit of the publisher, manager, or other employee of the newspaper, the copy of the notice, the affidavit of the purchaser or assignee, and the copy of the title search required under section 77-1835.~~

(2) 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 sections 77-1801 to 77-1863.

Sec. 8. Section 77-1837.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-1837.01 (1) Except as otherwise provided in ~~subsections~~ ~~subsection~~ (2) and (3) of this section, the laws in effect on the date of the issuance of a tax sale certificate govern all matters related to tax deed proceedings, including noticing and application, and foreclosure proceedings. Changes in law shall not apply retroactively with regard to the tax sale certificates previously issued.

(2) Tax sale certificates sold and issued between January 1, 2010, and December 31, ~~2016~~ 2017, shall be governed by the laws and statutes that were in effect on December 31, 2009, with regard to all matters relating to tax deed proceedings, including noticing and application, and foreclosure proceedings.

(3) Tax sale certificates sold and issued between January 1, 2017, and the effective date of this act shall be governed by the laws and statutes that are in effect on the effective date of this act with regard to all matters relating to tax deed proceedings, including noticing and application, and foreclosure proceedings.

Sec. 9. Original sections 77-1802, 77-1831, 77-1832, 77-1833, 77-1834, 77-1835, 77-1837, and 77-1837.01, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 10. The following section is outright repealed: Section 77-1824.01, Reissue Revised Statutes of Nebraska.