

2018 -- S 2091 SUBSTITUTE A

LC003730/SUB A

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~~ Tax titles 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 title(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~~ [titles](#) in respect to the disposition of the liens, of the parcel  
3 of property subject to the liens, and of the proceeds of a tax sale of the property.

4 [\(b\) If no agreement is in place, liens arising under § 44-9-1 shall be superior to any other](#)  
5 [lien.](#)

6 **44-9-12. Collector's deed -- Rights conveyed to purchaser -- Recording.**

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

30 (b) The rents to which the purchaser shall be entitled after the expiration of one year and  
31 prior to redemption shall be those net rents actually collected by the former fee holder or a  
32 mortgagee under an assignment of rents. Rents shall not include mere rental value of the land, nor  
33 shall the purchaser be entitled to any rent for owner-occupied, single-unit residential property.  
34 For purposes of redemption, net rents shall be computed by deducting from gross rents actually

1 collected any sums expended directly or on behalf of the tenant from whom the rent was  
2 collected. Such expenditure shall include utilities furnished, repairs made to the tenanted unit, and  
3 services provided for the benefit of the tenant. However, mortgagee payments, taxes, and sums  
4 expended for general repair and renovation (i.e. capital improvements) shall not be deductible  
5 expenses in the computation of the rent.

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

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

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

28 [\(f\) The priority of any tax title with respect to other tax titles shall be determined by the](#)  
29 [chronological order in which the underlying tax sales were conducted, with subsequent tax titles](#)  
30 [being superior to earlier tax titles.](#)

31 [\(g\) The holder of an earlier tax title shall be entitled to exercise the right of redemption](#)  
32 [with respect to any subsequent tax title, in the manner provided in this chapter, unless and until](#)  
33 [the right to redeem the subsequent tax title is foreclosed in accordance with this chapter. The](#)  
34 [holder of an earlier tax title shall be entitled to notice of any proceedings to foreclose the right of](#)

1 [redemption with respect to a subsequent tax title.](#)

2 [\(h\) The mere existence of a subsequent tax title shall have no effect upon:](#)

3 [\(1\) The existence or validity of an earlier tax title; or](#)

4 [\(2\) The validity of any proceedings to foreclose the right of redemption with respect to](#)  
5 [the earlier tax title, so long as the right of redemption with respect to a subsequent tax title has not](#)  
6 [been foreclosed.](#)

7 [\(i\) Any proceeding to foreclose the right of redemption with respect to an earlier tax title](#)  
8 [shall have no effect upon a subsequent tax title, and in any such proceeding, the holder of a](#)  
9 [subsequent tax title is not a necessary party.](#)

10 **44-9-13. Entry by collector not required -- Recording of tax sale list.**

11 ~~(a)~~ No entry upon the land by the collector shall be deemed necessary, but the collector in  
12 all cases of sales of real estate shall deliver to the clerk's or recorder's office a list of those  
13 properties sold at tax sale which the clerk or recorder shall record or post in the land evidence  
14 records for their city or town within five (5) business days after the sale of real estate. The  
15 recorded or posted list shall include the assessed owner's name, the address of the property, and  
16 the assessor's plat and lot, and the recorded or posted list shall be conclusive evidence of the facts  
17 stated in the list.

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

28 **44-9-21. Redemption from purchaser other than city or town.**

29 Any person may redeem by paying or tendering to a purchaser, other than the city or  
30 town, his or her legal representatives, or assigns, or to the person to whom an assignment of a tax  
31 title has been made by the city or town, at any time prior to the filing of the petition for  
32 foreclosure, in the case of a purchaser the original sum and any intervening taxes which have  
33 been paid to the municipality plus interest thereon at the rate of one percent (1%) per month and  
34 costs paid by him or her, plus a penalty as provided in § 44-9-19, or in the case of an assignee of a

1 tax title from a city or town, the amount stated in the instrument of assignment, plus the above-  
2 mentioned penalty. He or she may also redeem the land by paying or tendering to the treasurer the  
3 sum which he or she would be required to pay to the purchaser or to the assignee of a tax title, in  
4 which case the city or town treasurer shall be constituted the agent of the purchaser or assignee  
5 until the expiration of one year from the date of sale and not thereafter. The right of redemption  
6 may be exercised only by those entitled to notice of the sale pursuant to §§ 44-9-10 and 44-9-11.

7 **44-9-24. Title absolute after foreclosure of redemption -- Jurisdiction of**  
8 **proceedings.**

9 The title conveyed by a tax collector's deed shall be absolute after foreclosure of the right  
10 of redemption by decree of the superior court as provided in this chapter. Notwithstanding the  
11 rules of civil procedure or the provisions of chapter 21 of title 9, no decree shall be vacated  
12 except in a separate action instituted within ~~one-year~~ six (6) months following entry of the decree  
13 and in no event for any reason, later than ~~one-year~~ six (6) months following the entry of decree.  
14 Furthermore, the action to vacate shall only be instituted for inadequacy of notice of the petition  
15 amounting to a denial of due process or for the invalidity of the tax sale because the taxes for  
16 which the property was sold had been paid or were not due and owing because the property was  
17 exempt from the payment of such taxes. The superior court shall have exclusive jurisdiction of  
18 the foreclosure of all rights of redemption from titles conveyed by a tax collector's deed, and the  
19 foreclosure proceedings shall follow the course of equity in a proceeding provided for in §§ 44-9-  
20 25 -- 44-9-33.

21 **44-9-28. Order as to parties in default.**

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

26 **44-9-29. Redemption by party to foreclosure proceedings.**

27 Any person claiming an interest, on or before the return day or within that further time as  
28 may on motion be allowed by the court, providing said motion is made prior to the fixed return  
29 day, shall, if he or she desires to redeem, file an answer setting forth his or her right in the land,  
30 and an offer to redeem upon the terms as may be fixed by the court. ~~The~~ Where an answer has  
31 been timely filed, the court shall hear the parties, and may in its discretion make a finding  
32 allowing the party to redeem, within a time fixed by the court, upon payment to the petitioner of  
33 an amount sufficient to cover the original sum, costs, penalties, and all subsequent taxes, costs,  
34 and interest to which the petitioner may be entitled, together with the costs of the proceeding and

1 counsel fee as the court deems reasonable. The court may impose other terms as justice and the  
2 circumstances warrant.

3 **44-9-30. Decree barring redemption.**

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

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

10 If a person claiming an interest desires to raise any question concerning the validity of a  
11 tax title, the person shall do so by answer filed in the proceeding on or before the return day, or  
12 within that further time as may on motion be allowed by the court, [providing said motion is made](#)  
13 [prior to the fixed return date](#), or else be forever barred from contesting or raising the question in  
14 any other proceeding. He or she shall also file specifications setting forth the matters upon which  
15 he or she relies to defeat the title; and unless the specifications are filed, all questions of the  
16 validity or invalidity of the title, whether in the form of the deed or proceedings relating to the  
17 sale, shall be deemed to have been waived. Upon the filing of the specifications, the court shall  
18 hear the parties and shall enter a decree in conformity with the law on the facts found.

19 **44-9-43. Refund of purchase price when title based on collector's sale, treasurer's**  
20 **assignment, or sale without foreclosure adjudged invalid.**

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

31 [\(b\) If, prior to the filing of a petition, the title based on a collector's sale, treasurer's](#)  
32 [assignment, or sale without foreclosure is determined to be invalid by mutual agreement of the](#)  
33 [municipality and tax title holder, because of errors or irregularities in the tax proceedings upon](#)  
34 [which it was based, the treasurer of the city or town where the land affected by the title is](#)

1 situated, upon receipt of a deed from the tax title holder conveying all of the interest which they  
2 may have under it, shall refund to the holder the amount paid therefore plus statutory interest at  
3 the rate of one percent (1%) per month from the date of payment until the date of refund,  
4 notwithstanding the provisions of § 45-15-5. The taxing authority may recover any interest paid  
5 to a tax sale purchaser under this section from the delinquent assessed owner of the property as if  
6 the tax sale of the property had not been held. Nothing in this subsection shall abrogate the  
7 authority of a municipality's tax collector to redeem from a tax sale purchaser, in accordance with  
8 § 44-9-21, before an action to foreclose the right of redemption under section 25 of this chapter  
9 has been filed, any property sold at tax sale where the collector determines administrative error  
10 has occurred.

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

13 **44-9-25.3. Expedited foreclosure of the rights of redemption on account of vacancy.**

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

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

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

1 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

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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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