

AN ACT

ENTITLED, An Act to revise certain provisions concerning property tax collections, delinquent property taxes, tax certificates, and tax deeds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 10-21-1 be amended to read:

10-21-1. The treasurer shall collect all property taxes extended upon the tax list of the county and all delinquent taxes whether levied by the state or any of its taxing districts.

Section 2. That § 10-21-1.1 be amended to read:

10-21-1.1. The treasurer shall mail or transmit electronically a written tax bill to each taxpayer against whom a property tax has been assessed. The property tax bill sent to each taxpayer may reflect the breakdown of the tax by tax levies. However, the property tax bill shall at least provide a tax total for each taxing district. A definition shall be provided for any abbreviation used to describe any entity imposing a tax or special assessment. The property tax bill shall also separately state the amount of any taxes due as a result of a local decision to exceed the tax increase limits set forth in § 10-13-36 or 10-12-43 and shall be marked by an asterisk. The notice shall include the statement: "INDICATES A LOCAL DECISION TO OPT OUT OF THE TAX LIMITATION." If the local vote to increase taxes had not passed, the taxes would not have included the items marked with an asterisk (\*). If the treasurer does not mail the property tax receipts described in § 10-21-14, the treasurer shall indicate in the property tax bill or a notice enclosed with the bill that the treasurer does not intend to send a receipt unless requested by the taxpayer. If the tax levy breakdown is not shown on the tax bill, the treasurer on the taxpayer's request shall provide a tax levy sheet to the taxpayer. The tax levy sheet shall contain an example of the computation of the total tax for an individual. The secretary of revenue shall prescribe a uniform form which shall be used by the treasurer for notification of taxpayers as required by this section.

Section 3. That § 10-21-2 be amended to read:

10-21-2. No demand for taxes is necessary in order to fix the liability of the person against whom the taxes are assessed, but it is the duty of every person subject to taxation under this chapter to pay or cause to be paid to the treasurer the amount due.

Section 4. That § 10-21-4 be amended to read:

10-21-4. Except as provided in § 10-9-10, all taxes are due on January first of each year following assessment, levy, or extension of the taxes and as between vendor and vendee shall become a lien on the real property on and after January first.

Section 5. That § 10-21-5 be amended to read:

10-21-5. If a receiver is appointed, or an assignment for benefit of creditors made, or bankruptcy proceedings instituted, or administration of trusts or estates or similar court administration invoked, of, for, or on behalf of any person in any court in this state, the property taxes of the person is the first and preferred claim and charge and paid as part of the expense of administration out of the first funds or property accruing. This claim and charge is subject to the actual court costs and fees allowed by the court necessary for conducting the administration and any absolute exemptions and family allowance provided by law.

Section 6. That § 10-21-6 be repealed.

Section 7. That § 10-21-7 be amended to read:

10-21-7. The board of county commissioners may authorize the treasurer to accept partial payments of taxes, upon application, any time after January first to apply against the taxes due. If the applicant for partial payment owes taxes on more than one parcel of real property, the applicant shall, at the time of application for the privilege of partial payment, designate the parcel of real property upon which the partial payment is to be applied.

Section 8. That § 10-21-7.1 be amended to read:

10-21-7.1. The board of county commissioners may permit any person to remit property taxes by electronic transmission in ten equal monthly installments. The first payment shall be made on January first and the final payment shall be made by October first in the year the taxes are payable. The board shall by resolution establish the criteria for determining which taxpayers may remit property taxes by electronic transmission.

Section 9. That § 10-21-7.2 be amended to read:

10-21-7.2. Any remittance transmitted electronically pursuant to § 10-21-7.1 shall be made on or before the first day of the month and are considered to have been made on the date that the remittance is credited to the bank account designated by the treasurer. For purposes of making any electronic transfer of remittance pursuant to §§ 10-21-7.1 to 10-21-7.3, inclusive, the first day of the month means the first day of the month, unless the first day of the month is a Saturday, Sunday, a legal holiday enumerated in § 1-5-1, or a day which the Federal Reserve Bank is closed, then the electronic transfer of remittance is due on the next succeeding day that is not a Saturday, Sunday, a legal holiday enumerated in § 1-5-1, or a day which the Federal Reserve Bank is closed.

Section 10. That § 10-21-7.3 be amended to read:

10-21-7.3. Any property taxes remitted by electronic transmission pursuant to § 10-21-7.1 are delinquent if not remitted by the third day of the month following the month the taxes are due. However, notwithstanding the provisions of § 10-21-23, the first half of property taxes are not delinquent if the fifth payment made monthly pursuant to §§ 10-21-7.1 to 10-21-7.3, inclusive, is credited to the bank account designated by the treasurer on or before May first. If taxes become delinquent pursuant to this section, interest shall be added to the delinquent taxes at the Category G rate as established pursuant to § 54-3-16 for each day the taxes are delinquent.

Section 11. That § 10-21-7.4 be amended to read:

10-21-7.4. The treasurer is not required to provide a tax receipt pursuant to § 10-21-14 for each

tax payment made monthly pursuant to §§ 10-21-7.1 to 10-21-7.3, inclusive. The treasurer may provide a receipt for taxes paid for an entire year once paid in full. The treasurer shall provide a receipt if requested by any person who has paid taxes for an entire year in full.

Section 12. That § 10-21-11 be repealed.

Section 13. That § 10-21-12 be repealed.

Section 14. That § 10-21-13 be repealed.

Section 15. That § 10-21-14 be amended to read:

10-21-14. The treasurer shall make receipts for tax payments. One receipt may be delivered to the person paying the taxes and the other shall, within one week, be filed with the county auditor. The county auditor's copy of the receipt shall specify the property on which the tax was assessed, the amount of taxes collected for state purposes, the amount of each separate and distinct fund the tax is allocated to, and the years for which any of the real property described has been sold for taxes and not redeemed, unless the certificates for the tax sales are more than six years old.

Any county auditor who fails to enter on any tax receipt the amount of taxes for state purposes, or any treasurer who fails to specify on the tax receipt the information required by this section, is guilty of a Class 2 misdemeanor.

Section 16. That § 10-21-16 be amended to read:

10-21-16. All tax receipts issued by the treasurer shall be bound in books or in the form prescribed by the auditor-general and numbered consecutively, commencing with number one on the first receipt issued for the taxes of any one year. A separate and distinct series of numbers of receipts shall be kept and issued for the taxes of each year for which the taxes have been levied and assessed.

Section 17. That § 10-21-17 be amended to read:

10-21-17. A treasurer or any other person who intentionally issues a tax receipt or duplicate tax receipt which states that any part of the amount was paid by a warrant or order if the tax was paid

in cash is guilty of theft.

Section 18. That § 10-21-18 be amended to read:

10-21-18. A treasurer or any other person, who intentionally issues a tax receipt, or duplicate tax receipt, required by this title, by fraudulently making the tax receipt and its duplicate, or the document purporting to be its duplicate, different from each other, with intent to defraud the state, any county, or any person, is guilty of theft.

Section 19. That § 10-21-19 be amended to read:

10-21-19. If any taxes are paid, the county shall record in the tax list, opposite on the record of the description of the real property for which the taxes were levied, the date of the payment and the name of the person paying the taxes.

Section 20. That § 10-21-20 be amended to read:

10-21-20. After payment in full of all taxes on any real property which has been subdivided, rearranged, or platted into lots, the treasurer shall sign the plat to certify that all taxes have been paid in full.

Section 21. That § 10-21-21 be amended to read:

10-21-21. The county shall establish a system of procedures to ensure that the proper amount of taxes is collected, receipted into accountability, and deposited in the proper amount. If the amount of taxes and interest deposited by the treasurer is less than the receipts shown to be collected pursuant to the tax list, the county auditor shall charge the treasurer with the amount that the deposits fall short of the true amount collected.

Section 22. That § 10-21-23 be amended to read:

10-21-23. On May first of the year after which taxes have been assessed, one-half of all unpaid real property taxes are delinquent. However, all real property taxes totaling fifty dollars or less shall be paid in full on or before April thirtieth. On May first and the first day of each month thereafter

there shall be added as interest on the delinquent taxes at the Category G rate of interest as established in § 54-3-16. If the other half is not paid on or before October thirty-first of the same year, that amount also becomes delinquent on November first and the same interest shall attach in the same manner. If the last day of April or October falls on a Saturday or Sunday, the tax is due and payable on the last working day of that month. The tax payment shall either be received in the office on the last working day or the tax payment shall be postmarked by the last day before the taxes become delinquent.

Section 23. That § 10-21-25 be amended to read:

10-21-25. All penalty and interest provided for in § 10-21-23 shall be collected by the treasurer in addition to the principal amount.

Section 24. That § 10-21-26 be repealed.

Section 25. That § 10-21-27 be amended to read:

10-21-27. The county auditor shall pay to each taxing district all money received by the treasurer arising from taxes levied and collected on behalf of the taxing district.

Section 26. That § 10-21-28 be repealed.

Section 27. That § 10-21-29 be repealed.

Section 28. That § 10-21-30 be repealed.

Section 29. That § 10-21-31 be amended to read:

10-21-31. The county auditor, upon notification by the director of equalization of any unreported improvement pursuant to § 10-6-36.1, shall notify the owner of the real property that the improvement shall be added to the tax roll for each year that the improvement was made to the real property and that taxes and interest are due on the improvement from the first assessment date after the improvement was made. The notice shall describe the real property in general terms, describe the improvement to be added to the tax roll with the value, the years that the improvement is added

to, specify the amount of tax and interest that is owed, and inform the person when to appear before the county auditor to show cause why the improvement should not be added to the tax roll. The notice shall be sent at least fifteen days before the hearing to the last known address of the owner of the real property.

Section 30. That § 10-21-32 be amended to read:

10-21-32. If, after the hearing required by § 10-21-31, the owner of the real property has not shown cause why the improvement should not be added to the tax roll, the county auditor shall add the improvement to the tax roll for each year that the improvement existed and the treasurer shall collect the taxes and interest owed on the improvement. The interest provided in § 10-21-23 applies to the taxes owed on improvements added to the tax roll pursuant to this section from the first assessment date after the real property was improved.

Section 31. That § 10-21-33 be amended to read:

10-21-33. Taxes on real property and any penalty and interest imposed is a perpetual lien against all persons and bodies corporate, except the United States and this state.

Section 32. That § 10-21-35 be amended to read:

10-21-35. Any person who has purchased an interest in any real property causing the property to be divided and files all legal documents with the register of deeds may request the director of equalization to divide the assessed value between each property. The person requesting the assessed value to be divided shall pay the share of taxes against the real property without requiring the immediate payment of the taxes charged against the remaining property. The taxes shall be divided according to any agreement made by the purchaser and seller; if there is no agreement, the taxes shall be divided by the proportionate area purchased. The tax receipt shall show the portion of the taxes paid and the name and address of the person paying the tax.

Section 33. That chapter 10-21 be amended by adding a NEW SECTION to read:

For purposes of chapters 10-21 to 10-26, inclusive, the following terms mean:

- (1) "Courthouse," the county courthouse, the administrative building where the county office of treasurer is located, or a building where the board of county commissioners meet;
- (2) "Treasurer," the county treasurer.

Section 34. That § 10-22-1 be amended to read:

10-22-1. Between the first and fifteenth day of November in each year, the treasurer shall prepare and mail or transmit electronically a statement to each person owing mobile home taxes or taxes on a building on a leased site which are delinquent, except any person on the uncollectible mobile home tax list. The statement shall show the amount of the delinquent mobile home taxes or delinquent taxes on a building on a leased site computed to the date of the statement and shall notify the person owing the delinquent taxes that unless the delinquent taxes are paid in full before December first, a penalty of five dollars shall be added each year to the delinquent taxes and a notice published of the delinquent taxes. The notice shall be published in the official newspapers of the county during the week preceding the third Monday in December.

Section 35. That § 10-22-2 be amended to read:

10-22-2. During the week preceding the third Monday in December in each year, the treasurer shall publish in each of the official newspapers of the county, the name of each person whose mobile home taxes or taxes on a building on a leased site are delinquent. The notice shall contain the name of each taxpayer owing delinquent mobile home taxes or delinquent taxes on a building on a leased site and the amount, including interest and penalty, remaining unpaid. The notice does not need to include the name of any delinquent taxpayer known to the treasurer to be deceased. The treasurer shall charge and collect in addition to the taxes, penalty, and interest, the sum of one dollar against each person whose name appears in the publication. The treasurer shall deposit the money collected into the county general fund. The county shall pay the publisher of the notice the sum of thirty-three



cents for each name appearing in the notice.

Section 36. That § 10-22-5 be amended to read:

10-22-5. If the owner of any bill or claim against the county, other than salary, that has been allowed by the board of county commissioners, owes any delinquent real property taxes or delinquent mobile home taxes in that county, the county auditor shall deduct the amount of the delinquent taxes from the amount allowed. The treasurer shall issue to the owner of the bill or claim a payment for the balance, if any. If the amount due for delinquent real property taxes or delinquent mobile home taxes exceeds the amount allowed on that bill or claim, the county auditor shall apply the whole amount allowed toward the payment of the delinquent taxes.

Section 37. That § 10-22-7 be amended to read:

10-22-7. If the county auditor deducts or applies any amount to taxes pursuant to § 10-22-5, the county auditor shall issue and deliver to the treasurer a warrant for the amount deducted or applied. The county auditor shall mark on the face of the warrant, in red ink, the following: "Issued in payment (or part payment) of delinquent taxes of \_\_\_\_\_," giving the name of the person whose delinquent taxes were paid or partly paid.

Section 38. That § 10-22-8 be amended to read:

10-22-8. The treasurer may issue a distress warrant against any person whose mobile home taxes or taxes on a building on a leased site are delinquent at any time. The treasurer shall issue a distress warrant against any person whose mobile home taxes or taxes on a building on a leased site are delinquent when requested by any county commissioner or sheriff of the county.

Section 39. That § 10-22-9 be amended to read:

10-22-9. A treasurer's distress warrant shall be addressed to the sheriff of the county and shall be in substantially the following form:

I hereby certify that the mobile home taxes or taxes on a building on a leased site for the year

\_\_\_\_\_, assessed against \_\_\_\_\_ in the sum of \_\_\_\_\_ dollars, are unpaid, and I request the taxes to be collected, and authorize and direct the sheriff of this county to proceed with the collection of the taxes.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_ Treasurer of \_\_\_\_\_ county

Section 40. That § 10-22-10 be amended to read:

10-22-10. The treasurer shall issue and deliver the distress warrant to the sheriff. The distress warrant constitutes the sheriff's authority and the sheriff shall immediately proceed to execute the distress warrant. The sheriff shall collect the tax by seizure of personal property of the person in an amount sufficient to pay the tax, with accrued penalty and interest, if any, and all accruing costs.

Section 41. That § 10-22-11 be amended to read:

10-22-11. No property is exempt from the seizure except personal property absolutely exempt from execution.

Section 42. That § 10-22-12 be amended to read:

10-22-12. The sheriff shall, upon receipt of any distress warrant from the treasurer showing delinquent mobile home taxes or taxes on a building on a leased site, immediately proceed with due diligence to collect all taxes shown by each distress warrant to be delinquent in accordance with the provisions of §§ 10-22-14 to 10-22-27, inclusive. The failure of the sheriff to proceed constitutes nonfeasance in office and subjects the sheriff to removal from office in the manner provided in § 10-22-13.

Section 43. That § 10-22-13 be amended to read:

10-22-13. If the sheriff of any county fails to proceed in the collection of delinquent mobile home taxes or taxes on a building on a leased site as provided in § 10-22-12, the state's attorney of the county shall, upon resolution of the board of county commissioners, institute a special proceeding

in the circuit court for the county. The proceeding shall be instituted by petition of the state's attorney to the circuit court who shall issue an order fixing the time and location of a hearing on the petition. The order and copy of the petition shall be served upon the sheriff not less than ten days before the date fixed for hearing. If the court finds the sheriff guilty of nonfeasance of office as defined in § 10-22-12, the court shall, by appropriate order, remove the sheriff from office and the vacancy shall be filled as provided by law.

Section 44. That § 10-22-14 be amended to read:

10-22-14. Before seizing any property the sheriff shall ascertain from the records in the office of the register of deeds:

- (1) The amount of any mortgages, conditional sales contracts, or other liens upon the property; and
- (2) The names and addresses of the lienholders.

Section 45. That § 10-22-15 be amended to read:

10-22-15. In making the seizure of property, the sheriff shall first seize property that is not encumbered by any lien of record. The sheriff may seize encumbered property if, after due diligence, the sheriff is unable to collect the taxes due from unencumbered property. Any unpaid mobile home taxes or taxes on a building on a leased site shall be a first lien on the mobile home or building on a leased site. This tax lien has a priority over any other lien including a lien that was attached before the tax lien. Nothing provided in this section prevents the sheriff from first seizing an encumbered mobile home or building on a leased site for which the delinquent taxes are based.

Section 46. That § 10-22-16 be amended to read:

10-22-16. The distress warrant shall be executed by service of a copy of the distress warrant with a notice of the levy upon the owner of the property. If the owner cannot be served in person, the sheriff may mail the distress warrant to the last known address of the owner. If the owner cannot be

found, nor any address of the owner be ascertained, then the distress warrant and the notice of levy shall be posted on the bulletin board at the front door of the courthouse of the county.

Section 47. That § 10-22-17 be amended to read:

10-22-17. If the property consists of bulky materials or property which cannot be practicably or conveniently moved, the sheriff may hold and sell the materials and property at the place where it is located. In this case, the sheriff, in addition to the service and notice specified in § 10-22-16, shall file a copy of the notice of levy in the office of the register of deeds of the county, stating:

- (1) The name of the person against whom the distress warrant was issued;
- (2) The description of the property;
- (3) The amount of the tax claim; and
- (4) A description of the real property where the property is located.

Section 48. That § 10-22-18 be amended to read:

10-22-18. The sheriff shall fix a time and location for sale of the property seized, which may not be less than ten nor more than thirty days after the seizure. The location for the sale may be at any public location within the county or where the property is located in the case of bulky material or property incapable of being conveniently moved. Notice of the sale shall be given by posting the notice in three public locations in the county, at least ten days before the date of the sale. The notice shall state:

- (1) The time and location of the sale;
- (2) The name of the person against whom the distress warrant was issued;
- (3) A description of the property; and
- (4) The amount of the tax claim.

The notice shall identify the particular taxes for which the sale is to be made and also refer to the distress warrant under which the sale is to be held. A copy of the notice shall also be mailed to any

lienholder of record at the address as shown by the lien of record. If no address appears in a lien of record, mailing of notice is not required. The failure to mail notice does not invalidate the sale. However, the lienholder does have recourse against the sheriff for any damage the lienholder may show.

Section 49. That § 10-22-19 be amended to read:

10-22-19. If the property owner, or any person interested, or anyone on the owner's behalf pays to the sheriff the amount of the tax with the interest, penalty, and other costs due after the property has been seized and before the sale, the levy or seizure is abated. The property shall be released to the owner, at the location the property is located, and receipt shall be given for the taxes paid.

Section 50. That § 10-22-20 be amended to read:

10-22-20. The treasurer shall furnish the sheriff with a receipt of taxes paid. After the collection of any taxes, interest, penalties, fees, or other costs, the sheriff shall issue a receipt for the money collected. The original receipt shall be delivered to the payor and the duplicate receipt shall be filed with the treasurer. The treasurer shall remove the tax from the tax list in the office and enter the date and number of the sheriff's receipt. The treasurer shall issue a regular tax receipt for the full amount and promptly deliver the receipt to the tax debtor.

Section 51. That § 10-22-21 be amended to read:

10-22-21. If the tax, penalty, interest, and other costs are not paid before the time fixed for sale, the sheriff shall sell the property, or as much of the property as necessary, at the time and location in the notice at public auction to the highest bidder for cash. The sale is absolute and without right of redemption. The sheriff shall give to the purchaser, if demanded, a certificate of sale which transfers the property to the purchaser with the same legal effect as if executed by the owner. The certificate of sale shall be accepted as evidence of the title by all public officials, courts, and departments of the state or any of its political subdivisions.

Section 52. That § 10-22-22 be amended to read:

10-22-22. The sheriff may adjourn the sale for a period not to exceed three days, and shall adjourn at least once if there are no bidders. The adjournment shall be made by public announcement at the time and location of the sale and by posting a notice of the adjournment at the time and location of the sale.

Section 53. That § 10-22-23 be amended to read:

10-22-23. If the property does not sell, the sheriff shall return the property to the possession of the person from whom the sheriff took the property and the taxes remain unpaid.

Section 54. That § 10-22-24 be amended to read:

10-22-24. The sheriff shall submit a return to the treasurer on each distress warrant as soon as executed, and at least within six months after date of issue of the distress warrant, stating the amounts, if any, that have been collected upon the distress warrant. After the sheriff has completed a diligent search and no property is found to collect for the distress warrant, the sheriff shall report the number of miles actually and necessarily traveled in executing each distress warrant and the number of distress warrants executed on each trip. If a sale was made under any distress warrant, the sheriff shall show the procedure of serving the distress warrant, including the giving of notice as required, the time and location of the sale, the name of each purchaser, the amount bid and paid by each purchaser, and the property sold to each purchaser.

Section 55. That § 10-22-25 be amended to read:

10-22-25. When submitting the return to the treasurer, the sheriff shall turn over the full amount collected and provide a receipt for the amount. The treasurer shall issue a receipt to the sheriff for the amount received.

Section 56. That § 10-22-26 be amended to read:

10-22-26. The balance remaining due on any tax after deducting the net collections made by the

sheriff as shown by the return on the distress warrant remains collectible as a tax with the same force and effect as before the distress warrant was issued. A subsequent distress warrant may be issued for the balance due or other remedies for collection may be invoked.

Section 57. That § 10-22-27 be amended to read:

10-22-27. Any surplus remaining after paying the taxes, penalty, interest, and other costs, shall be returned to the owner. If the owner cannot be found within one year, the surplus shall be deposited in the county general fund.

Section 58. That § 10-22-28 be amended to read:

10-22-28. The sheriff is allowed for collecting taxes the following fees: twenty-five dollars for making the sheriff's return on the sheriff's warrant of authority; fifteen dollars for each levy; and ten dollars for each sale and necessary costs of the sale. The fees and costs shall be collected from the tax debtor or the tax debtor's property. If actual travel is made in collecting taxes, the sheriff shall also collect from the tax debtor or the tax debtor's property an additional penalty, in lieu of mileage, equal to fifteen percent of the amount of tax and interest due. The fees and costs collected pursuant to this section shall be deposited in the county general fund. The sheriff shall receive from the county mileage for each mile actually and necessarily traveled at the rate provided by law. However, the sheriff is not allowed mileage for collecting taxes within the corporate limits of the county seat.

Section 59. That § 10-22-29 be repealed.

Section 60. That § 10-22-30 be amended to read:

10-22-30. The treasurer shall present to the board of county commissioners each distress warrant returned by the sheriff uncollected. The board shall examine each return. If the taxes described in any distress warrant cannot be collected, the board shall declare the taxes to be uncollectible and the treasurer shall place the taxes on the uncollectible list. A distress warrant may be reissued for the taxes by the order of the board of county commissioners or on written demand of the sheriff. The

treasurer does not need to make an additional effort to collect any mobile home taxes or taxes on a building on a leased site declared to be uncollectible until it is determined either by the board of county commissioners or the treasurer that the tax has become or may become collectible.

Section 61. That § 10-22-31 be repealed.

Section 62. That § 10-22-32 be repealed.

Section 63. That § 10-22-33 be amended to read:

10-22-33. The treasurer shall issue distress warrants covering all taxes not declared uncollectible unless other remedies are pursued for the collection of the taxes as provided by law.

Section 64. That § 10-22-53 be amended to read:

10-22-53. If any mobile home taxes or taxes on a building on a leased site are levied against any person, and the taxes are not paid within the time prescribed by law, the treasurer may enforce the collection of the taxes by a civil action in the circuit court for the county. The venue of the action shall remain in the county where the tax is of record regardless of the residence of the parties and the action may be maintained against nonresidents of the state.

Section 65. That § 10-22-54 be amended to read:

10-22-54. The treasurer may also, upon securing approval of the board of county commissioners, institute and maintain an action in another state or in the federal courts.

Section 66. That § 10-22-55 be amended to read:

10-22-55. The treasurer may use any ancillary remedy or proceeding provided by law of this or any jurisdiction in which an action under § 10-22-53 or 10-22-54 may be brought.

Section 67. That § 10-22-56 be amended to read:

10-22-56. It is sufficient for the treasurer to allege in a complaint that the taxes stand charged against the defendant, that the taxes are delinquent and unpaid, stating the year or years and the amount for each year. The treasurer is not required to set forth in the complaint or by a bill of



particulars any other or further matter relating to the delinquent taxes. The tax list or lists is prima facie evidence of the amount and validity of the taxes appearing due and unpaid and the nonpayment of the taxes. If, on the trial of the action, it is found that the person owes taxes, judgment shall be rendered in favor of the treasurer prosecuting the action. The judgment debtor is not entitled to the benefit of any exemptions other than those made absolute.

Section 68. That § 10-22-57 be amended to read:

10-22-57. In an answer, the defendant may assert any defense which the defendant may have to the collection of the taxes. If the defendant claims the taxes to be void, the court shall ascertain the correct amount of taxes due from the person for the year or years it is claimed the taxes are delinquent. If, in the court's opinion, the assessment or any subsequent proceeding is void or is voidable by the omission or commission of any act required or prohibited, the court shall reassess the property or order the property to be reassessed by the director of equalization acting at the time of the order. The court shall render judgment for the correct amount of taxes due from the defendant for that year or years.

Section 69. That § 10-22-58 be amended to read:

10-22-58. If any person who owes delinquent mobile home taxes or taxes on a building on a leased site leaves the state and establishes residence outside the state, the board of county commissioners may employ assistance outside of this state to collect the delinquent taxes. The board may pay out of the delinquent taxes collected for the collection services a commission not to exceed fifty percent of the amount collected.

Section 70. That § 10-22-59 be amended to read:

10-22-59. The courts of this state shall recognize and enforce the liability for taxes lawfully imposed by the laws of any other state that recognize and enforce the liability for taxes lawfully imposed by the laws of this state. The officials of the other state are authorized to bring action in the

courts of this state for the collection of taxes. The certificate of the secretary of state of the other state that an official has the authority to collect the taxes is conclusive proof of that authority.

Section 71. That § 10-22-60 be amended to read:

10-22-60. The term, taxes, as used in §§ 10-22-59 and 10-22-61 means:

- (1) Any and all tax assessments lawfully made whether the taxes are based upon a return or other disclosure of the taxpayer, upon the information and belief of the taxing authority, or otherwise;
- (2) Any and all penalties lawfully imposed pursuant to a taxing statute; and
- (3) Interest charges lawfully added to the tax liability which constitutes the subject of the action.

Section 72. That § 10-22-61 be amended to read:

10-22-61. The attorney general of this state may bring action in the courts of other states to collect taxes legally due this state.

Section 73. That § 10-22-62 be amended to read:

10-22-62. The provisions of this chapter apply to the collection of the taxes and interest owed on a mobile home, a building on a leased site, and any improvement added to the tax roll pursuant to §§ 10-6-36.1 to 10-6-36.3, inclusive, and §§ 10-21-31 and 10-21-32.

Section 74. That § 10-23-1 be amended to read:

10-23-1. If delinquent special assessments levied in any municipality are certified to the county auditor as provided in title 9, the county auditor shall certify the delinquent special assessments to the treasurer. The delinquent special assessments shall be collected by the treasurer by sale of the real property subject to the special assessment at the next succeeding sale of real property for delinquent taxes. The sale of the real property shall be conducted in the same manner, time, and location as it is for real property being sold for delinquent property taxes.

Section 75. That § 10-23-2 be amended to read:

10-23-2. The treasurer shall give notice of the sale of the tax certificate by publication of the sale once during the week before the sale in the official newspapers of the county. If there is no newspaper published in the county, the treasurer shall give notice by written or printed notice posted at the door of the courthouse for two weeks before the sale. The county auditor shall reconcile the published list of unpaid taxes to the unpaid taxes in the tax list.

Section 76. That § 10-23-2.1 be amended to read:

10-23-2.1. In addition to the notice required by § 10-23-2, the treasurer shall send the notice containing the information provided in §§ 10-23-2.5 and 10-23-3 by first class mail or by electronic means to:

- (1) Any owner of the real property at the owner's last known address;
  - (2) Any person holding a special assessment certificate which is a lien upon the real property;
- and
- (3) The municipal finance officer, if the property is located in a municipality.

The treasurer shall mail or transmit electronically the notice at least fourteen days before the day of sale. The treasurer shall certify, on the tax certificate records for that tax year, that notice was given in the manner prescribed by this section.

Section 77. That § 10-23-2.2 be repealed.

Section 78. That § 10-23-2.3 be amended to read:

10-23-2.3. The board of county commissioners may by resolution require that the name, address, the amount of taxes, penalty, and interest due, and the years the taxes are due of any delinquent taxpayer whose tax certificate was sold or offered for sale at a tax certificate sale pursuant to this chapter be published each year that a tax certificate is outstanding until the tax deed is issued.

Section 79. That § 10-23-2.4 be amended to read:

10-23-2.4. The treasurer shall notify both the seller and the buyer under a contract for deed of delinquent property taxes if the contract has been recorded in the Office of the Register of Deeds. The notice shall include the years that the taxes are delinquent and the amount of delinquent taxes.

Section 80. That § 10-23-2.5 be amended to read:

10-23-2.5. Any property owner of a homestead that receives a notice of delinquent taxes or a notice pursuant to § 10-23-2.1 who will be seventy years of age or older by the date of the tax certificate sale for the homestead shall notify the treasurer before the sale that the owner occupies the home and meets the age requirement for the homestead exemption provided pursuant to chapter 43-31. If the owner fails to notify the treasurer that the owner occupies the home and meets or will meet the age requirement for the homestead exemption, the owner shall be held responsible for any costs incurred related to the sale of the tax certificate and the payment of the taxes and interest on the tax certificate. The notice required by § 10-23-2.1 shall include a statement informing the owner of each requirement imposed by this section and the applicable penalties.

Section 81. That § 10-23-3 be amended to read:

10-23-3. The notice required by § 10-23-2 shall contain a notification that all real property on which the taxes of the preceding year or years remain unpaid that a tax certificate will be sold. The notice shall include:

- (1) The time and place of the sale;
- (2) A list of the tax certificates to be sold on which the taxes of the preceding year or years were unpaid as of the close of business on the first Monday of December;
- (3) The name of the parties, against whom the taxes are assessed or current owner of record;  
and
- (4) The amount of taxes due.

Section 82. That § 10-23-5 be amended to read:

10-23-5. The treasurer shall charge and collect, in addition to the taxes and special assessments, and interest and penalty, the sum of four dollars and fifty cents on each tract of real property and on each municipal lot or group of municipal lots advertised for sale or published pursuant to § 10-23-2.3. The fee collected pursuant to this section shall be deposited in the county general fund. The county shall pay the cost of publication for the information published pursuant to § 10-23-2.3.

Section 83. That § 10-23-6 be amended to read:

10-23-6. Within thirty days after the completed publication required by § 10-23-2, each official newspaper in which the notice was published shall receive one-third of the fee charged to the delinquent property for advertising. If the notice was published in one or two official newspapers, each newspaper may only receive one-third of the fee charged and the balance shall be deposited in the county general fund.

Section 84. That § 10-23-7 be amended to read:

10-23-7. On the third Monday of December in each year, between the hours of nine a.m. and four p.m. the treasurer shall offer at public sale at the courthouse a tax certificate for any real property that is liable for taxes of any description for the preceding year or years, and that remains due and unpaid. The treasurer may adjourn the sale from day to day until all the tax certificates have been offered. No taxable property is exempt from levy and sale for taxes except as provided in § 43-31-1.

Section 85. That § 10-23-8 be amended to read:

10-23-8. Before making a sale of a tax certificate, the treasurer shall offer a tax certificate for each separate parcel of real property for sale in the numerical order in which it appears on the tax list and receive bids for the tax certificate. If any person bids the full amount of the taxes, interest, and costs due, stating in the bid the lowest rate of interest per year at which the bidder will pay the taxes assessed and due against the property, the treasurer shall sell and issue to that bidder the tax certificate. In no case may the rate of interest exceed the rate named in the bid. The bid offered on

the tax certificate at the lowest rate of interest per year is considered the best bid. No rate of interest higher than ten percent per year is a valid bid pursuant to this section. Upon redemption of a tax certificate that has been sold or assigned to a purchaser other than the county, a fee shall be deducted from the proceeds paid to the holder of the tax certificate. The county commission may, by resolution, establish a fee not to exceed fifty dollars. No property owner may be assessed this additional fee. The fee shall be deposited in the county general fund.

Section 86. That § 10-23-9 be amended to read:

10-23-9. If any person bidding fails to pay the amount due, the treasurer may again offer the tax certificate for sale if the sale has not been closed. If the sale has been closed, the treasurer may again advertise the tax certificate by one notice posted for two weeks on the door of the courthouse. After the additional two week posting, the tax certificate may be sold at public sale or the treasurer may recover the amount by civil action brought in the name of the county in which the sale was held.

Section 87. That § 10-23-10 be amended to read:

10-23-10. The sale of a tax certificate made for the collection of delinquent special assessments shall be conducted in the same manner as other tax certificate sales made by the treasurer. The owner of the property has the same length of time to redeem the tax certificate, and is entitled to the same notice used for the issuance of a tax deed in other tax sales.

Section 88. That § 10-23-11 be amended to read:

10-23-11. On or before the last Monday of December following the sale of a tax certificate, the treasurer is required to file in the office of the county auditor a return of the sale and retain a copy in the treasurer's office showing:

- (1) Each tax certificate sold;
- (2) The name of each purchaser and the amount paid; and
- (3) A copy of the notice of the sale, with an affidavit of publication.

The description of the real property represented in the tax certificate in each return shall be entered in the same numerical order as the tax list.

Section 89. That § 10-23-12 be amended to read:

10-23-12. After the tax certificate sale has been closed and the treasurer has filed the return with the county auditor, if any tax certificate remains unsold for want of bidders, the treasurer is authorized and required to sell the tax certificate at private sale at the treasurer's office to any person who will pay the amount of taxes, penalty, and costs due on the property. The treasurer shall deliver to each purchaser a tax certificate as provided by law and make out a receipt for the taxes on the real property and file a receipt with the county auditor.

Section 90. That § 10-23-13 be repealed.

Section 91. That § 10-23-14 be amended to read:

10-23-14. If a tax certificate is sold by mistake or wrongful act of the treasurer, the county shall refund the purchaser, the purchaser's heirs, assigns, or personal representatives the amount paid on the real property and any subsequent taxes paid to protect the tax certificate, with interest at the Category A rate of interest as established in § 54-3-16 from the date of the payment. The refund shall continue until paid or until notice is served by the treasurer, either personally or by registered or certified mail, upon the purchaser, the purchaser's heirs, assigns, or personal representatives, demanding that the tax certificate be surrendered for cancellation.

Section 92. That § 10-23-15 be amended to read:

10-23-15. If any real property has been assessed and the entry is canceled by the United States government or the state, and the real property has been sold for taxes to a purchaser, the county shall refund to the purchaser, the purchaser's heirs, assigns, or personal representatives, the amount paid on the real property and any subsequent taxes paid to protect the tax certificate, with interest as provided in § 10-23-14.

Section 93. That § 10-23-16 be amended to read:

10-23-16. If any real property on which taxes are refunded to the purchaser as provided in §§ 10-23-14 and 10-23-15 become liable to taxation subsequent to the assessment for which the real property was sold, the county auditor shall extend taxes legally chargeable for the real property for each year the owner has paid taxes on the real property. The taxes shall be collected as other taxes upon real property.

Section 94. That § 10-23-17 be amended to read:

10-23-17. The taxes refunded as provided in §§ 10-23-14 and 10-23-15 shall be apportioned to the respective taxing districts for which the taxes were levied.

Section 95. That § 10-23-18 be amended to read:

10-23-18. The purchaser of a tax certificate sold by the treasurer for taxes is entitled to a tax certificate describing the real property, the sum paid and stating the time when the purchaser will be entitled to a deed. The tax certificate shall be signed by the treasurer and is presumptive evidence of the regularity of all prior proceedings.

Section 96. That § 10-23-19 be amended to read:

10-23-19. The treasurer shall collect ten dollars for each tax certificate, and five dollars for each deed made by the treasurer. If the treasurer makes a deed to any real property sold for taxes, the treasurer shall make an entry of the real property in the tax certificate records opposite the description of the real property.

Section 97. That § 10-23-20 be amended to read:

10-23-20. In each tax certificate sale made pursuant to this chapter the treasurer shall make out the tax receipt for the taxes of the real property described in the tax certificate.

Section 98. That § 10-23-21 be amended to read:

10-23-21. Any tax certificate issued pursuant to § 10-23-18 is assignable and any assignment of



the tax certificate shall be acknowledged before an officer authorized to take acknowledgments of deeds. The assignee of the tax certificate acquires the lien of the taxes on the real property if the assignee presents the assigned tax certificate to the treasurer for entry. The treasurer shall enter on the record of the sale the fact that the tax certificate has been assigned, entering the name and address of the assignee, and the date when the assignment was presented for entry.

Section 99. That § 10-23-22 be amended to read:

10-23-22. The purchaser at tax sale or assignee of the tax certificate may pay any taxes levied on the real property purchased, whether levied for any year or years previous or subsequent to the sale and still unpaid. The amount or amounts paid as subsequent taxes does not bear interest until on and after the date when the subsequent taxes paid become delinquent. The purchaser or assignee shall have the same lien for the taxes paid subsequently and may add the taxes to the amount paid under the original tax certificate, provided that the purchaser or assignee informs the treasurer that the amount paid is subsequent to the tax certificate. The treasurer shall make out the tax receipt for the taxes paid as subsequent, and shall write on the tax certificate, "paid as subsequent taxes." The treasurer shall enter on the record of the original tax certificate sale the payment of subsequent taxes, giving the name of the person who paid the subsequent taxes, the date when paid, the amount paid, and for what year the subsequent tax was levied.

Section 100. That § 10-23-23 be amended to read:

10-23-23. Any tax certificate sold for delinquent special assessments pursuant to § 10-23-1 and not redeemed shall be entered by the treasurer on the duplicate tax lists of the county for the succeeding years and noted on the tax receipt for the real property. The treasurer shall add to the amount of each special assessment certified interest at the Category G rate of interest as established in § 54-3-16. No other costs or penalties may be added except as provided by law for certificate of sale, deed, and acknowledgment.

Section 101. That § 10-23-24 be amended to read:

10-23-24. If there are no other bidders offering the amount due under a tax certificate sale, the treasurer may bid off all or any tax certificate offered at the sale for the amount of taxes, penalty, interest, and costs due and unpaid on the property, in the name of the county. The county may acquire all the rights, both legal and equitable, that any purchaser may acquire by reason of the purchase.

Section 102. That § 10-23-25 be amended to read:

10-23-25. If the treasurer of any county bids off any tax certificate in the name of the county, the treasurer shall issue a tax certificate of purchase to the county in the same manner as if sale had been made to any other person. The tax certificate shall be retained by the treasurer, but no tax receipt may be issued and no amount may be due the state, or any other fund. No treasurer's commission may be paid by the county until redemption has been made from the sale or the time of redemption has expired, or until the interest of the county has been assigned. The tax certificate issued to the county shall bear interest at the Category G rate of interest as established in § 54-3-16.

Section 103. That § 10-23-26 be amended to read:

10-23-26. If any county acquires an interest or any rights in real property, and the tax certificate has been bid off in the name of the county as provided in § 10-23-24, the real property may not be again advertised and sold for delinquent taxes so long as the county retains its interest in and rights to the real property.

Section 104. That § 10-23-27 be amended to read:

10-23-27. All taxes subsequently accruing against the real property, or that were unpaid at the time of the tax certificate sale and a lien on the real property but not included in the bid, is considered as a subsequent tax. Before the county can make an assignment of the interest in and rights to the real property, or before an assignment of the tax certificate of the sale is made, all taxes

shall be paid in full, including the amount for which the tax certificate was bid off.

Section 105. That § 10-23-28 be amended to read:

10-23-28. If any person intends to purchase the interest of the county in the tax certificate acquired by the treasurer for the county, the person may pay to the treasurer the amount of the taxes, penalty, interest, and costs of sale and transfer and all unpaid or subsequent taxes as specified in § 10-23-27. The treasurer shall issue a tax receipt for the taxes, penalty, interest, and costs. The treasurer shall assign and deliver to the purchaser the tax certificate of purchase held by the county for the real property, which assignment and transfer shall convey unto the purchaser all the rights of the county in the tax certificate as much as if the person was the original purchaser at the tax certificate sale.

Section 106. That § 10-23-28.1 be amended to read:

10-23-28.1. Notwithstanding the provisions of chapters 10-23, 10-24, and 10-25, no county may sell any tax certificate unless the board of county commissioners adopts a resolution waiving the provisions of this section that prohibit the sale of tax certificates. The county shall be the holder of any tax certificate issued by the county unless the board of county commissioners adopts a resolution waiving the provisions of this section that prohibit the sale of tax certificates. The treasurer shall continue to serve notice on the owner of record of the real property, publish notice, and attend to the other administrative provisions imposed by chapters 10-23, 10-24, and 10-25. Nothing in this section affects the holder of any existing tax certificate, the method in which the tax certificate is redeemed, or the sale of real property for taxes or assessments.

Section 107. That § 10-23-29 be amended to read:

10-23-29. No sale of any tax certificate on real property for nonpayment of taxes nor any conveyance issued on the real property is invalid or voidable if the real property has been listed or charged on any tax list in any other name than that of the rightful owner nor on account of neglect

or failure of the treasurer or any other officer to collect the tax for which the tax certificate was sold.

Section 108. That § 10-23-32 be amended to read:

10-23-32. The provisions of this chapter apply to the collection of the taxes and interest owed on improvements added to the tax roll pursuant to §§ 10-6-36.1 to 10-6-36.3, inclusive, and §§ 10-21-31 and 10-21-32.

Section 109. That § 10-23-33 be amended to read:

10-23-33. Any tax certificate on real property upon which any tax is delinquent pursuant to § 10-21-7.3 may be sold pursuant to this chapter.

Section 110. That § 10-24-1 be amended to read:

10-24-1. Any person may redeem a tax certificate on real property sold for taxes at any time before issue of a tax deed for the property by paying the treasurer the sum listed in the tax certificate, the interest on the sum at the rate that the real property was sold from the date of purchase, other taxes subsequently paid, and interest on the taxes at the same rate from the date of the payment. The treasurer shall enter a memorandum of the redemption in the list of sales and give a receipt for the redemption to the person redeeming the tax certificate. The treasurer shall also file the receipt with the county auditor. The treasurer shall hold the money subject to the order of the purchaser, the purchaser's agent, or the purchaser's attorney.

Section 111. That § 10-24-2 be amended to read:

10-24-2. If the person who redeems a tax certificate on real property does not demand a receipt or tax certificate of redemption from the treasurer, the return of the tax certificate of purchase for cancellation operates as a release of all claims to the real property described in the tax certificate. The treasurer, after receiving the tax certificate of purchase, shall mark on the tax certificate sale record opposite the description of the real property for which the tax certificate of purchase has been issued, and opposite the record showing all payments of subsequent taxes, "sale canceled by return

of tax certificate."

Section 112. That § 10-24-3 be amended to read:

10-24-3. Any person adjudged incompetent may redeem a tax certificate belonging to the person and sold for taxes, within one year after the person is adjudged competent. Any minor may redeem a tax certificate belonging to the minor and sold for taxes, within one year after the minor reaches the age of eighteen. Nothing in this section prevents partition proceedings according to law as to any tax certificate, by the tax deed holder or the holder's successor to a tax certificate in which any minor or any person under disability may have any interest.

Section 113. That § 10-24-5 be amended to read:

10-24-5. Any person may redeem a tax certificate bid off by the treasurer in the name of the county at a tax sale, at any time before the tax deed has been issued by paying the amount of all delinquent taxes with penalty and interest up to the date of redemption and the costs of advertising and selling the tax certificate. After the payment of the taxes, penalties, interests, and costs, the treasurer shall issue a tax receipt for the taxes, penalty, interest, and costs. The treasurer shall also mark on the tax certificate record the word, redeemed, with the date and name of the person who redeemed the tax certificate.

Section 114. That § 10-24-6 be amended to read:

10-24-6. If any tax certificate has been purchased by the county at any tax certificate sale, subsequent taxes have accrued and become due against the real property, and the tax certificate remains owned by the county, a person may pay the amount due on one or more years of the subsequent taxes without making full redemption from the sale without depriving the county of its right to enforce the county's tax liens under any tax certificate. The treasurer, after issuing a receipt for payment, shall state the years for which prior taxes on the real property remain unpaid.

Section 115. That § 10-24-7 be amended to read:

10-24-7. Nothing contained in § 10-24-5 or 10-24-6 prevents the county from requiring payment of any tax that the county requires from any owner or other person interested in the real property, if the owner or interested person is seeking to redeem a tax certificate or pay a subsequent tax.

Section 116. That § 10-24-8 be amended to read:

10-24-8. Nothing contained in § 10-24-5 or 10-24-6 grants a disinterested person redeeming or paying taxes a lien on the real property or a claim against owners or lienholders, except an agreement a disinterested person may have by contract with the owners or lienholders or by law.

Section 117. That § 10-24-9 be repealed.

Section 118. That § 10-24-10 be repealed.

Section 119. That § 10-24-11 be repealed.

Section 120. That § 10-24-12 be repealed.

Section 121. That § 10-24-13 be repealed.

Section 122. That § 10-24-14 be repealed.

Section 123. That § 10-24-15 be repealed.

Section 124. That § 10-24-16 be amended to read:

10-24-16. Any person who has a lien on any real property sold or about to be sold for taxes or on which the taxes are delinquent and unpaid may redeem from the tax sale if the real property is subject to redemption or may pay the taxes, interest, penalty, and costs that are delinquent. The receipt of the treasurer or the tax certificate of redemption constitutes an increase of the amount of the lien held by the party paying the taxes or making the redemption. The amount paid and the interest on the amount at the rate specified in the lien instrument, or if none is specified then at the rate that the taxes would bear according to law, shall be collected with, as a part of, and in the same manner as the amount secured by the original lien.

Section 125. That § 10-24-17 be amended to read:

10-24-17. Immediately after redemption from any tax certificate sale, the treasurer shall notify the purchaser or present holder of the redeemed tax certificate of the redemption. The notice shall be sent to the address as shown by the record of the tax certificate or assignment of the purchaser or present holder. If there is no address, the notice shall be sent to the last known address of the purchaser or present holder. The notice shall give the description of the property and amount of redemption. The treasurer shall charge a fee pursuant to § 10-23-8 for each notice. The fee shall be deposited in the county general fund. If the tax certificate has been assigned and assignment recorded, the notice shall be sent to the assignee only.

Section 126. That § 10-25-1 be amended to read:

10-25-1. If a tax certificate is sold for taxes and not yet redeemed, the owner or holder of the tax certificate may conduct, or cause to be conducted, a proceeding to procure a tax deed on the real property, as provided by §§ 10-25-2 to 10-25-12, inclusive. A proceeding shall be initiated after three years from the date of the tax certificate sale or at any time thereafter within six years from the date of the tax certificate sale subject to the provisions of §§ 10-25-16 to 10-25-19, inclusive. The time period applies equally to the county or any other purchaser of the tax certificate. Any assignee of a tax certificate shall take the tax certificate subject to the time period of the first owner of the tax certificate.

Section 127. That § 10-25-2 be amended to read:

10-25-2. A notice of intention to take a tax deed shall be signed by the lawful holder of the tax certificate, or the holder's agent or attorney, stating the date of sale, the description of the real property sold, the name of the purchaser, and the name of the assignee, if any. The notice shall also state that the right of redemption will expire and a deed for the real property will be made upon the expiration of sixty days from the completed service, unless the real property is redeemed as permitted by law. If two or more certificates covering different descriptions of real property are held by the

same person, either by purchase or assignment or both, the descriptions may all be included in one notice if the notice includes the information required in this section for each description.

Section 128. That § 10-25-3 be amended to read:

10-25-3. The notice of intention to take a tax deed shall be served on the owner of record of the real property, the person in possession of the real property, the person in whose name the real property is taxed, and the mortgagee named in any unsatisfied mortgage in force on the real property of record in the office of the register of deeds of the county where the real property is located. However, if the mortgage has been assigned and the assignment is placed on record in the office of the register of deeds, then notice shall be served on the assignee in lieu of the mortgagee named in the mortgage. The notice of intention to take a tax deed shall also be served on any lienholder, any creditor of record, and other interested person as may appear from the records in the office of the register of deeds, the treasurer, or the clerk of courts. The treasurer may obtain any title information necessary to identify any person who appears from the records to have an interest in the real property as the owner, mortgagee, lienholder, or other interested person.

Section 129. That § 10-25-4 be amended to read:

10-25-4. If the real property is situated within a municipality, notice also shall be served on:

- (1) The holder of any special assessment certificate that is a lien upon the real property;
- (2) The holder of any tax certificate issued upon sale for any special assessment; and
- (3) The municipal finance officer.

The service provided for in this section may be made only upon each person described in this section whose name and post-office address is known to the holder of the tax certificate or may be obtained from the municipal finance officer or the treasurer, as provided in § 10-25-7.

Section 130. That § 10-25-5 be amended to read:

10-25-5. Personal service of the notice shall be served on the owner of record of the real



property, the person in possession of the real property, and the person in whose name the real property is taxed in the manner provided by law for the service of summons. Any other person listed in §§ 10-25-3 and 10-25-4 may be served in the manner provided by law for the service of summons or the notice may be served by publishing the notice once a week for at least two successive weeks in the legal newspapers for the county. The notice to the mortgagee or the mortgagee's assignee shall be directed to the mortgagee or assignee to the address appearing in the mortgage of record, or in the assignment of the real property. The notice to a lienholder or to any other interested person as may appear from the records in the office of the register of deeds, the treasurer, or the clerk of courts shall be sent to the last known address of the person. The notice shall be sent by registered or certified mail, return receipt requested.

Section 131. That § 10-25-6 be amended to read:

10-25-6. If any of the persons on whom notice is required to be served by §§ 10-25-3 and 10-25-4 is deceased, the notice shall be served on the decedent's personal representative, foreign or resident, or on the resident agent of a foreign personal representative, if any are known to the certificate holder. If no such person is known, the notice shall be served on any known heirs and beneficiaries of the decedent, in the same manner as if the heirs and beneficiaries were owners of record. For any unknown heirs and beneficiaries of the decedent, notice shall be served by publishing the notice as provided in § 10-25-5 and designating such unknown persons as the unknown personal representatives, heirs, and beneficiaries of the deceased. The fact of whether the decedent, the decedent's personal representative or resident agent, or any heirs and beneficiaries are known or unknown shall be sufficiently established for tax-deed proceedings by the affidavit of completed service of the certificate holder or the tax certificate holder's agent or attorney conducting the proceedings.

Section 132. That § 10-25-7 be amended to read:

10-25-7. The notice to the holder of any special assessment certificate shall be directed to the certificate holder at the address that appears for the certificate holder in connection with the record of the certificate with the finance officer of the municipality. The notice shall be personally served or sent by registered or certified mail, return receipt requested. A like notice, by personal service or registered or certified mail, return receipt requested, shall be sent to the holder of any tax certificate issued upon a sale for any special assessment, by mailing to the tax certificate holder's address as the address appears in the office of the treasurer. Service is not required for any tax certificate holder whose name and address do not appear in the record and for whom an affidavit or tax certificate is made by the treasurer stating that the person's name or address is not known to the treasurer, accompanied by an affidavit of the holder of the tax certificate that the holder does not know the name and address of the person.

Section 133. That § 10-25-10 be amended to read:

10-25-10. The person demanding the tax deed shall purchase the assignment of all prior tax certificates held by the county on the real property before the treasurer may issue the tax deed.

Section 134. That § 10-25-11 be amended to read:

10-25-11. Immediately after the expiration of sixty days from the date of the filing of affidavit of completed service of the notice provided in § 10-25-8, the treasurer shall prepare a deed for each parcel of real property for the tax certificate sold and remains unredeemed. The deed shall be signed by the treasurer and attested by the county auditor, under seal, and shall be delivered to the purchaser or the purchaser's assignee upon the return of the certificate of tax sale. The treasurer shall receive five dollars for each deed prepared by the treasurer on a sale.

Section 135. That § 10-25-12 be amended to read:

10-25-12. Any deed issued pursuant to this chapter or chapter 10-26 vests in the grantee an absolute estate in fee simple in the real property. However, the real property is subject to any claim

that the state may have in the real property for taxes, liens, or encumbrances. The real property is also subject to any lien for past-due installments of special assessments for the financing of municipal improvements levied pursuant to chapter 9-43, including principal and interest on the installments except as provided by § 9-43-100. The holder of the deed or the holder's successor in interest is entitled to immediate exclusive possession of the real property described in the deed regardless of rights of any person to redeem or question exclusive possession thereafter.

Section 136. That § 10-25-13 be amended to read:

10-25-13. The tax deed is prima facie evidence of the truth of all the facts recited, and of the regularity of all proceedings from the valuation of the real property by the director of equalization up to the execution of the deed. The tax deed shall include the following:

- (1) The legal description of the real property;
- (2) The amount due for nonpayment of taxes, penalties, interest, and costs;
- (3) The date of the tax certificate sale;
- (4) The name of the person who purchased the tax certificate;
- (5) The amount paid for the tax certificate;
- (6) A statement that notice of the tax certificate sale was given and legally advertised; and
- (7) The seal of the treasurer.

The tax deed shall be acknowledged by the treasurer in the presence of the county auditor or a notary public.

Section 137. That § 10-25-14 be amended to read:

10-25-14. If the real property is sold at a private sale after being offered at a public sale for taxes, there shall be inserted in the deed a statement that the property was sold at a private sale as required by § 10-25-13.

Section 138. That § 10-25-15 be amended to read:

10-25-15. If deeds are delivered by the treasurer for real property sold for taxes, the certificate shall be canceled and filed by the county auditor. In case of loss of any certificate, on being satisfied by due proof, and bond stating the sum equal to the value of the property conveyed, the treasurer may execute, deliver, and file the proof and bond with the county auditor.

Section 139. That § 10-25-16 be amended to read:

10-25-16. If a proceeding to procure a tax deed is not completed within six years after the date of the tax certificate sale on which the proceeding is based, the tax certificate sale, the lien for taxes, the lien of any taxes paid by the holder of the tax certificate as subsequent taxes, and all rights thereunder cease and are forever barred. The treasurer shall cancel the tax certificate on the treasurer's record and shall note on the sale records and the tax books of the treasurer's office that the tax certificate and the lien of subsequent tax receipts held by the owner of the tax certificate are barred and are not valid.

Section 140. That § 10-25-17 be amended to read:

10-25-17. The provisions of § 10-25-16 do not apply to tax sale certificates that are held by the county. If any tax certificate is assigned by the county, and if the tax certificate is dated more than four years preceding the date of its assignment, the purchaser of the tax certificate has one year from the date of its assignment to commence a proceeding to procure a tax deed.

Section 141. That § 10-25-18 be amended to read:

10-25-18. The commencement of a proceeding to procure a tax deed within the periods limited in §§ 10-25-16 and 10-25-17 does not extend the lien of the holder of the tax certificates more than six months beyond the expiration of the periods of limitations. If any proceeding, commenced within the time limited by §§ 10-25-16 and 10-25-17, is not completed, and the right of the party instituting the proceeding to receive a tax deed under the provisions of §§ 10-25-1 to 10-25-12, inclusive, is not fully completed and established, within six months after the expiration of six years from the date of

the tax certificate sale on which the proceeding is based; then all rights under the proceeding cease and are forever barred. The treasurer shall cancel the tax certificate in the manner provided in § 10-25-16. However, the purchaser of a tax certificate assigned by the county has an additional period of one year from the date of the assignment to commence the proceeding and six months after the expiration of the period of one year to complete the proceeding. If the tax certificate is cancelled, the lien of the holder of the tax certificate is extinguished and all further proceedings on the tax certificate are barred.

Section 142. That § 10-25-19 be amended to read:

10-25-19. Commencement of a proceeding as provided in §§ 10-25-16 to 10-25-18, inclusive, means any act done or record made by or for the certificate holder indicating that a proceeding has been commenced. Completion of a proceeding used in §§ 10-25-16 to 10-25-18, inclusive, means the completed service and filing of proof of service in the office of the treasurer which starts the running of the sixty days allowed for redemption.

Section 143. That § 10-25-20 be amended to read:

10-25-20. If any real property has been bid in by the treasurer in the name of the county at the tax certificate sale and the tax certificate has not been redeemed from the sale or assigned by a certificate of purchase, and sufficient time has elapsed since the sale that a tax deed may be properly issued, the treasurer may issue a tax deed for the real property to the county. However, if the treasurer fails, refuses, or neglects to take proceedings for the issuance of a tax deed to the county, the treasurer shall, upon written application of the county commissioners, or the governing body of any municipality, school district, or township within the county that would be a beneficiary of the tax for which the property was sold, may give notice of intention to take tax deed as required by law. After the notice has been given and no redemption has been made within the time allowed, the treasurer shall issue a tax deed for the real property to the county. If the treasurer fails, refuses, or

neglects to comply with the provisions of this section, the treasurer's duty to comply may be enforced by writ of mandamus.

Section 144. That § 10-25-21 be amended to read:

10-25-21. If any real property has been bid in by the treasurer in the name of the county at tax certificate sale and the tax certificate has not been redeemed from the sale or assigned by a certificate of sale, and sufficient time has elapsed since the sale that a tax deed may be properly issued, the board of county commissioners may, in lieu of taking a tax deed, procure from any person who has any interest in the real property, real or apparent, a transfer by deed of the interest. However, consideration for the transfer may not exceed the sum of fifteen dollars exclusive of taxes in connection with any real property.

Section 145. That § 10-25-22 be amended to read:

10-25-22. If title to real property has been acquired by the county under the provisions of § 10-25-21, the board of county commissioners may compromise, abate, or fully cancel any taxes previously extended against the real property.

Section 146. That § 10-25-23 be amended to read:

10-25-23. Any sale or rental of real property acquired by a county by transfer in lieu of a tax-deed proceeding, shall be made in the same manner as provided for sale or rental of real property acquired by a tax deed.

Section 147. That § 10-25-24 be amended to read:

10-25-24. Any county that has acquired or may acquire title to any real property by tax deed may commence an action in the county to quiet the title to the real property. In any such action, several parcels of real property, contiguous or noncontiguous, may be included in one complaint and any person claiming any title to, interest in, or lien upon any of the real property may be joined as a defendant. If requested by the board of county commissioners, the state's attorney shall promptly

commence and prosecute the action to final judgment.

Section 148. That § 10-25-25 be amended to read:

10-25-25. The procedure in the action commenced under § 10-25-24 shall be conducted pursuant to the provisions of chapter 21-41, except the provisions of chapter 21-41 requiring the plaintiff to execute an indemnity bond, before entry of judgment to the defendants who are served by publication, are not applicable to the county.

Section 149. That § 10-25-26 be amended to read:

10-25-26. The board of county commissioners may procure from any person who has any interest in the real property, real or apparent, a transfer, assignment, or satisfaction of the interest for the purpose of removing any cloud from the title of the real property. The authority granted in this section may be exercised either in lieu of an action to quiet title or in connection with an action. However, the consideration for the transfer, assignment, or satisfaction may not exceed twenty-five dollars in connection with any parcel of real property, the title to which is sought to be quieted or cloud to the title removed. The board of county commissioners may negotiate with any person having any interest, real or apparent, in any real property, for transfers, assignments, or satisfactions and may pay for the transfers, assignments, or satisfactions within the limitations provided in this section.

Section 150. That § 10-25-27 be amended to read:

10-25-27. The board of county commissioners shall control the rental of real property acquired by the county under tax deed. The rental proceeds from real property acquired by a county under tax deed shall, after deducting the expenses of collecting the proceeds, be apportioned by the county officials controlling the proceeds in the same manner as taxes are apportioned from the real property if the real property was still contributing in taxes.

Section 151. That § 10-25-39 be amended to read:

10-25-39. The proceeds of the sale, after deducting the expenses incurred by the county in the

proceeding to take tax deed and in the sale proceeding, shall be distributed by prorating the proceeds on the basis of the tax levies for the most recent year for which taxes are included in the proceeds of the sale.

Section 152. That § 10-25-40 be amended to read:

10-25-40. After a county has sold and issued to a purchaser a deed to any real property for which the county has taken tax title, the county auditor shall cancel the taxes levied against the real property before the sale by the county and enter the cancellation on the records of the treasurer. If the tax deed to the county and the county deed to the purchaser is declared void by a court within three years of the execution of the tax deed to the county, the taxes shall be reinstated by the county auditor on the records of the county auditor and the records of the treasurer, and the treasurer shall place a lien against the real property.

Section 153. That § 10-25-41 be amended to read:

10-25-41. The county commissioners may authorize a reconveyance by quitclaim deed to the record owner or the record owner's assignees or successors only of any real property held by the county under tax deed only. The reconveyance shall be for consideration not less than the total principal, interest, and costs of all taxes represented in the tax deed and any other taxes and interest which are unpaid on the real property.

Section 154. That § 10-25-42 be amended to read:

10-25-42. Nothing contained in § 10-25-41 limits the discretion of the county commissioners to fix a higher price for the reconveyance or to annex to the reconveyance any conditions or qualifications as the county commissioners may establish.

Section 155. That § 10-25-43 be amended to read:

10-25-43. Reconveyance pursuant to § 10-25-41 may be authorized only by resolution of the county commissioners published in the minutes, and the reconveyance may be made only after the



time for an appeal from the resolution has expired. The reconveyance is made by quitclaim deed substantially in the form provided by chapter 43-25 and may be made only on payment in cash of the price fixed by the resolution of the county commissioners. The quitclaim deed is executed by the treasurer and attested by the county auditor under seal. The quitclaim deed has the effect only of releasing the title and claim that the county and the taxing districts represented by the county have under the tax deed and any of the taxes that are paid as a part of the price fixed by the county commissioners.

Section 156. That § 10-25-44 be amended to read:

10-25-44. No action may be commenced by the former owner or by any person claiming under him or her, to recover possession of any real property which has been sold and conveyed by deed for nonpayment of taxes or to avoid the deed, unless action is commenced within one hundred eighty days after the recording of the deed. No defense may be interposed or maintained by the former owner, or by any person claiming under him or her, in any action brought to quiet the title in the grantee in any tax deed, or by any person claiming under the grantee, in any tax deed issued and delivered by any treasurer unless the defense is interposed within one hundred eighty days after the recording of the tax deed in the office of the register of deeds in which the real property described in the tax deed is located.

An Act to revise certain provisions concerning property tax collections, delinquent property taxes, tax certificates, and tax deeds.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1147

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1147  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State