

## CHAPTER 51.

### ALTERNATE PROCEDURE FOR COLLECTION OF PROPERTY TAXES

**SECTION 12-51-40.** Default on payment of taxes; levy of execution by distress and sale; notice of delinquent taxes; seizure of property; advertisement of sale.

After the county treasurer issues his execution against a defaulting taxpayer in his jurisdiction, as provided in Section 12-45-180, signed by him or his agent in his official capacity, directed to the officer authorized to collect delinquent taxes, assessments, penalties, and costs, requiring him to levy the execution by distress and sale of the defaulting taxpayer's estate, real or personal, or both, or property transferred by the defaulting taxpayer, the value of which generated all or part of the tax, to satisfy the taxes, assessments, penalties, and costs, the officer to which the execution is directed shall:

(a) On April first or as soon after that as practicable, mail a notice of delinquent property taxes, penalties, assessments, and costs to the defaulting taxpayer and to a grantee of record of the property, whose value generated all or part of the tax. The notice must be mailed to the best address available, which is either the address shown on the deed conveying the property to him, the property address, or other corrected or forwarding address of which the officer authorized to collect delinquent taxes, penalties, and costs has actual knowledge. The notice must specify that if the taxes, penalties, assessments, and costs are not paid, the property must be advertised and sold to satisfy the delinquency.

(b) If the taxes remain unpaid after thirty days from the date of mailing of the delinquent notice, or as soon thereafter as practicable, take exclusive possession of the property necessary to satisfy the payment of the taxes, assessments, penalties, and costs. In the case of real property, exclusive possession is taken by mailing a notice of delinquent property taxes, assessments, penalties, and costs to the defaulting taxpayer and any grantee of record of the property at the address shown on the tax receipt or to an address of which the officer has actual knowledge, by "certified mail, return receipt requested-restricted delivery" pursuant to the United States Postal Service "Domestic Mail Manual Section S912". If the addressee is an entity instead of an individual, the notice must be mailed to its last known post office address by certified mail, return receipt requested, as described in Section S912. In the case of personal property, exclusive possession is taken by mailing the notice of delinquent property taxes, assessments, penalties, and costs to the person at the address shown on the tax receipt or to an address of which the officer has actual knowledge. All delinquent notices shall specify that if the taxes, assessments, penalties, and costs are not paid before a subsequent sales date, the property must be duly advertised and sold for delinquent property taxes, assessments, penalties, and costs. The return receipt of the "certified mail" notice is equivalent to "levying by distress".

(c) If the "certified mail" notice has been returned, take exclusive physical possession of the property against which the taxes, assessments, penalties, and costs were assessed by posting a notice at one or more conspicuous places on the premises, in the case of real estate, reading: "Seized by person officially charged with the collection of delinquent taxes of (name of political subdivision) to be sold for delinquent taxes", the posting of the notice is equivalent to levying by distress, seizing, and taking exclusive possession of it, or by taking exclusive possession of personalty. In the case of personal property, the person officially charged with the collection of delinquent taxes is not required to move the personal property from where situated at the time of seizure and further, the personal property may not be moved after seized by anyone under penalty of conversion unless delinquent taxes, assessments, penalties, and costs have been paid. Mobile homes are considered to be personal property for the purposes of this section unless the owner gives written notice to the auditor of the mobile home's annexation to the land on which it is situated.

(d) The property must be advertised for sale at public auction. The advertisement must be in a newspaper of general circulation within the county or municipality, if applicable, and must be entitled "Delinquent Tax Sale". It must include the delinquent taxpayer's name and the description of the

property, a reference to the county auditor's map-block-parcel number being sufficient for a description of realty. The advertising must be published once a week before the legal sales date for three consecutive weeks for the sale of real property, and two consecutive weeks for the sale of personal property. All expenses of the levy, seizure, and sale must be added and collected as additional costs, and must include, but not be limited to, the expenses of taking possession of real or personal property, advertising, storage, identifying the boundaries of the property, and mailing certified notices. When the real property is divisible, the tax assessor, county treasurer, and county auditor may ascertain that portion of the property that is sufficient to realize a sum upon sale sufficient to satisfy the payment of the taxes, assessments, penalties, and costs. In those cases, the officer may partition the property and furnish a legal description of it.

(e) As an alternative, upon approval by the county governing body, a county may use the procedures provided in Chapter 56, Title 12 as the initial step in the collection of delinquent taxes on real and personal property.

(f) For the purpose of enforcing payment and collection of property taxes when the true owner is unknown because of the death of the owner of record and the absence of probate administration of the decedent's estate, the property must be advertised and sold in the name of the deceased owner of record.

**HISTORY:** 1962 Code Section 65-2815.3; 1971 (57) 499; 1985 Act No. 166, Section 4; 1988 Act No. 451, Section 1; 1989 Act No. 78, Section 1; 1996 Act No. 431, Section 26; 1997 Act No. 106, Section 4; 1998 Act No. 285, Section 1; 2000 Act No. 399, Section 3(X)(3), eff January 1, 2001.

**SECTION 12-51-50.** Sale of property; procedures; defaulting taxpayer or grantee with more than one item to be sold.

The property duly advertised must be sold, by the person officially charged with the collection of delinquent taxes, at public auction at the courthouse or other convenient place within the county, if designated and advertised, on the advertised date for legal tender payable in full by cash, cashier's check, certified check, or money order on the date of the sale. If the defaulting taxpayer or the grantee of record of the property has more than one item advertised to be sold, as soon as sufficient funds have been accrued to cover all of the delinquent taxes, assessments, penalties, and costs, further items must not be sold.

**HISTORY:** 1962 Code Section 65-2815.4; 1971 (57) 499; 1985 Act No. 166, Section 5; 1997 Act No. 146, Section 1; 2000 Act No. 399, Section 3(X)(4), eff January 1, 2001; 2012 Act No. 186, Section 3, eff June 7, 2012.

**SECTION 12-51-55.** Required bid on behalf of Forfeited Land Commission when property sold for ad valorem taxes.

The officer charged with the duty to sell real property and mobile or manufactured housing for nonpayment of ad valorem property taxes shall submit a bid on behalf of the Forfeited Land Commission equal to the amount of all unpaid property taxes, penalties, assessments including, but not limited to, assessments owed to a special taxing district established pursuant to Section 4-9-30, Chapter 19 of Title 4, or an assessment district established pursuant to Chapter 15 of Title 6, and costs including taxes levied for the year in which the redemption period begins. The Forfeited Land Commission is not required to bid on property known or reasonably suspected to be contaminated. If the contamination becomes known after the bid or while the commission holds the title, the title is voidable at the election of the commission. If the property is not redeemed, the excess above the amount of taxes, penalties, assessments, charges, and costs for the year in which the property was sold must be applied first to the taxes becoming due during the redemption period.

HISTORY: 1995 Act No. 90, Section 3; 1996 Act No. 431; 2000 Act No. 399, Section 3(X)(5), eff January 1, 2001; 2005 Act No. 145, Section 51, eff June 7, 2005.

**SECTION 12-51-60.** Payment by successful bidder; receipt; disposition of proceeds.

The successful bidder at the delinquent tax sale shall pay legal tender as provided in Section 12-51-50 to the person officially charged with the collection of delinquent taxes in the full amount of the bid on the day of the sale. Upon payment, the person officially charged with the collection of delinquent taxes shall furnish the purchaser a receipt for the purchase money. He must attach a copy of the receipt to the execution with the endorsement of his actions, which must be retained by him. Expenses of the sale must be paid first and the balance of all delinquent tax sale monies collected must be turned over to the treasurer. Upon receipt of the funds, the treasurer shall mark immediately the public tax records regarding the property sold as follows: Paid by tax sale held on (insert date). All other monies received, including any excess after payment of delinquent taxes, assessments, penalties, and costs, must be retained, paid out, and accounted for by the delinquent tax collector. Once a tax deed has been issued, the defaulting taxpayer and the owner of record immediately before the end of the redemption period must be notified in writing by the delinquent tax collector of any excess due. The notice must be addressed and mailed in the manner provided in Section 12-51-40(b) for taking exclusive possession of real property. Expenses of providing this notice are considered costs of the sale for purposes of determining the amount, if any, of the excess.

HISTORY: 1962 Code Section 65-2815.5; 1971 (57) 499; 1985 Act No. 166, Section 6; 1994 Act No. 296, Section 1; 1996 Act No. 332, Section 2; 1996 Act No. 431, Section 30; 1998 Act No. 285, Section 2; 2000 Act No. 399, Section 3(X)(6), eff January 1, 2001.

**SECTION 12-51-70.** Default by successful bidder; readvertisement of property.

If the successful bidder fails to remit in legal tender within the time specified, the person officially charged with the collection of delinquent taxes shall cancel that bid and duly readvertise the same property for sale, in the same manner, on a subsequent delinquent tax sale date. The defaulting bidder is liable for no more than five hundred dollars damages upon default, which may be collected by suit by the person officially charged with the collection of delinquent taxes in the name of the taxing authority.

HISTORY: 1962 Code Section 65-2815.6; 1971 (57) 499; 1985 Act No. 166, Section 7; 2012 Act No. 186, Section 4, eff June 7, 2012.

**SECTION 12-51-80.** Settlement by treasurer.

The treasurer shall make full settlement of tax sale monies, within thirty days after the sale, to the respective political subdivisions for which the taxes were levied. Proceeds of the sales in excess thereof must be retained by the treasurer as otherwise provided by law.

HISTORY: 1962 Code Section 65-2815.7; 1971 (57) 499; 1985 Act No. 166, Section 8.

**SECTION 12-51-90.** Redemption of real property; assignment of purchaser's interest.

(A) The defaulting taxpayer, any grantee from the owner, or any mortgage or judgment creditor may within twelve months from the date of the delinquent tax sale redeem each item of real estate by paying to the person officially charged with the collection of delinquent taxes, assessments, penalties, and costs, together with interest as provided in subsection (B) of this section. If prior to the expiration of the redemption period, the purchaser assigns his interest in any real property purchased at a delinquent tax

sale, the grantee from the successful bidder shall furnish the person officially charged with the collection of delinquent taxes a conveyance, witnessed and notarized. The person officially charged with the collection of delinquent taxes shall replace the successful bidder's name and address with the grantee's name and address in the delinquent tax sale book.

(B) The lump sum amount of interest due on the whole amount of the delinquent tax sale based on the month during the redemption period the property is redeemed and that rate relates back to the beginning of the redemption period according to the following schedule:

Month of Redemption Period Property Redeemed	Amount of Interest Imposed
First three months	three percent of the bid amount
Months four, five, and six	six percent of the bid amount
Months seven, eight, and nine	nine percent of the bid amount
Last three months	twelve percent of the bid amount

However, in every redemption, the amount of interest due must not exceed the amount of the bid on the property submitted on behalf of the forfeited land commission pursuant to Section 12-51-55.

(C) If the defaulting taxpayer, grantee from the owner, or mortgage or judgment creditor fails to redeem the item of real estate sold at the delinquent tax sale within the twelve months provided in subsection (A) and after the passing of an additional twelve months, the tax deed issued is incontestable on procedural or other grounds.

HISTORY: 1962 Code Section 65-2815.8; 1971 (57) 499; 1985 Act No. 166, Section 9; 1996 Act No. 332, Section 1; 2000 Act No. 334, Section 1, eff June 6, 2000; 2001 Act No. 89, Section 48, eff July 20, 2001; 2006 Act No. 238, Section 3.A, eff March 15, 2006.

**SECTION 12-51-95.** Owner of mobile or manufactured home may redeem property.

Notwithstanding the provisions of Section 12-51-110, the owner or lienholder of any mobile home or manufactured home may redeem the property as provided in Sections 12-51-90, 12-51-100, and 12-51-120. For purposes of this chapter, "mobile or manufactured home" is defined in Section 12-43-230(b) or Section 40-29-20(9), as applicable.

HISTORY: 1988 Act No. 647, Section 1; 1994 Act No. 506, Section 13.

**SECTION 12-51-96.** Conditions of redemption.

In order for the owner or lienholder on the "mobile home" or "manufactured home" to redeem his property as permitted in Section 12-51-95, the mobile or manufactured home subject to redemption must not be removed from its location at the time of the delinquent tax sale for a period of twelve months from the date of the sale unless the owner is required to move it by the person other than himself who owns the land upon which the mobile or manufactured home is situated. In this event, the owner of the mobile or manufactured home must notify the purchaser and the delinquent tax collector of the new location of the mobile or manufactured home, which new location also must be in this State. If the owner moves the mobile or manufactured home in violation of this section, he is guilty of a misdemeanor and, upon conviction, must be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding one year, or both. In addition to the other requirements and payments necessary for an owner of a mobile or manufactured home to redeem his property after a delinquent tax sale, the defaulting taxpayer or lienholder also must pay rent to the purchaser at the time of redemption an amount not to exceed one-twelfth of the taxes for the last completed property tax year, exclusive of penalties, costs, and interest, for each month between the sale and redemption. However, the monthly rental, when calculated as provided in this section, must not be less than ten dollars. For purposes of this rent calculation, more than one-half of the days in any month counts as a whole month.

HISTORY: 1988 Act No. 647, Section 3; 1994 Act No. 506, Section 14.

**SECTION 12-51-100.** Cancellation of sale upon redemption; notice to purchaser; refund of purchase price.

Upon the real estate being redeemed, the person officially charged with the collection of delinquent taxes shall cancel the sale in the tax sale book and note thereon the amount paid, by whom and when. The successful purchaser, at the delinquent tax sale, shall promptly be notified by mail to return the tax sale receipt to the person officially charged with the collection of delinquent taxes in order to be expeditiously refunded the purchase price plus the interest provided in Section 12-51-90.

HISTORY: 1962 Code Section 65-2815.9; 1971 (57) 499; 1985 Act No. 166, Section 10; 1998 Act No. 285, Section 3.

**SECTION 12-51-110.** Personal property shall not be subject to redemption; purchaser's bill of sale and right of possession.

For personal property, there is no redemption period subsequent to the time that the property is struck off to the successful purchaser at the delinquent tax sale. Upon payment by the successful purchaser and delivery of the duplicate warrant (i.e. tax receipt) with description and notation by the person officially charged with the collection of delinquent taxes, he shall deliver to the successful purchaser the following form properly executed which is his bill of sale and right of possession:

"Sold to \_\_\_\_\_ at Delinquent Tax Sale on \_\_\_\_\_, who is the successful purchaser of personal property sold for delinquent taxes.

\_\_\_\_\_  
(Officer Charged with Tax Collection)".

HISTORY: 1962 Code Section 65-2815.10; 1971 (57) 499; 1985 Act No. 166, Section 11.

**SECTION 12-51-120.** Notice of approaching end of redemption period.

**Neither more than forty-five days nor less than twenty days before** the end of the redemption period for real estate sold for taxes, the person officially charged with the collection of delinquent taxes shall mail a notice by "certified mail, return receipt requested-restricted delivery" as provided in Section 12-51-40(b) to the defaulting taxpayer and to a grantee, mortgagee, or lessee of the property of record in the appropriate public records of the county. The notice must be mailed to the best address of the owner available to the person officially charged with the collection of delinquent taxes that the real property described on the notice has been sold for taxes and if not redeemed by paying taxes, assessments, penalties, costs, and interest at the applicable rate on the bid price in the total amount of \_\_\_ dollars on or before \_\_\_ (twelve months from date of sale) (date) \_\_\_\_\_, a tax title must be delivered to the successful purchaser at the tax sale. Pursuant to this chapter, the return of the certified mail "undelivered" is not grounds for a tax title to be withheld or be found defective and ordered set aside or canceled of record.

HISTORY: 1962 Code Section 65-2815.11; 1971 (57) 499; 1985 Act No. 166, Section 12; 1996 Act No. 332, Section 3; 1996 Act No. 431, Section 31; 2000 Act No. 399, Section 3(X)(7), eff January 1, 2001.

**SECTION 12-51-130.** Execution and delivery of tax title; costs and fees; overages.

Upon failure of the defaulting taxpayer, a grantee from the owner, a mortgagee, a judgment creditor, or a lessee of the property to redeem realty within the time period allowed for redemption, the person

officially charged with the collection of delinquent taxes, within thirty days or as soon after that as possible, shall make a tax title to the purchaser or the purchaser's assignee. Delivery of the tax title to the clerk of court or register of deeds is considered "putting the purchaser, or assignee, in possession". The tax title must include, among other things, the name of the defaulting taxpayer, the name of any grantee of record of the property, the date of execution, the date the realty was posted and by whom, and the dates each certified notice was mailed to the party or parties of interest, to whom mailed and whether or not received by the addressee. The successful purchaser, or assignee, is responsible for the actual cost of preparing the tax title plus documentary stamps necessary to be affixed and recording fees. The successful purchaser, or assignee, shall pay the amounts to the person officially charged with the collection of delinquent taxes before delivery of the tax title to the clerk of court or register of deeds and, upon payment, the person officially charged with the collection of delinquent taxes is responsible for promptly transmitting the tax title to the clerk of court or register of deeds for recording and remitting the recording fee and documentary stamps cost. If the tax sale of an item produced more cash than the full amount due in taxes, assessments, penalties, and costs, the overage must be applied to any outstanding municipal tax liens on the property. Any remaining overage belongs to the owner of record immediately before the end of the redemption period to be claimed or assigned according to law. These sums are payable ninety days after execution of the deed unless a judicial action is instituted during that time by another claimant. If neither claimed nor assigned within five years of date of public auction tax sale, the overage shall escheat to the general fund of the governing body. Before the escheat date unclaimed overages must be kept in a separate account and must be invested so as not to be idle and the governing body of the political subdivision is entitled to the earnings for keeping the overage. On escheat date the overage must be transferred to the general funds of the governing body.

HISTORY: 1962 Code Section 65-2815.12; 1971 (57) 499; 1985 Act No. 166, Section 13; 2000 Act No. 399, Section 3(X)(8), eff January 1, 2001; 2005 Act No. 145, Section 52, eff June 7, 2005; 2006 Act No. 238, Section 2, eff March 15, 2006; 2006 Act No. 386, Sections 44, 49.C, eff June 14, 2006.

**SECTION 12-51-135.** Removal of erroneously issued warrants.

If a warrant, which has been filed with the clerk of court in any county, is determined by the Department of Revenue to have been issued and filed in error, the clerk of court, upon notification by the Department of Revenue, must remove the warrant from its book.

HISTORY: 1985 Act No. 201, Part II, Section 49; 1993 Act No. 181, Section 231.

**SECTION 12-51-140.** Notice to mortgagees.

The provisions of Sections 12-49-1110 through 12-49-1290, inclusive, relating to notice to mortgagees of proposed tax sales and of tax sales of properties covered by their respective mortgages are adopted as a part of this chapter.

HISTORY: 1962 Code Section 65-2815.13; 1971 (57) 499.

**SECTION 12-51-150.** Official may void tax sales.

If the official in charge of the tax sale discovers before a tax title has passed that there is a failure of any action required to be properly performed, the official may void the tax sale and refund the amount paid, plus interest in the amount actually earned by the county on the amount refunded, to the successful bidder. If the full amount of the taxes, assessments, penalties, and costs have not been paid, the property must be brought to tax sale as soon as practicable.

HISTORY: 1962 Code Section 65-2815.14; 1971 (57) 499; 1985 Act No. 166, Section 14; 2006 Act No. 386, Sections 35, 49.D, eff June 14, 2006.

**SECTION 12-51-160.** Deed as evidence of good title; statute of limitations.

In all cases of tax sale the deed of conveyance, whether executed to a private person, a corporation, or a forfeited land commission, is prima facie evidence of a good title in the holder, that all proceedings have been regular and that all legal requirements have been complied with. An action for the recovery of land sold pursuant to this chapter or for the recovery of the possession must not be maintained unless brought within two years from the date of sale as provided in Section 12-51-90(C).

HISTORY: 1962 Code Section 65-2815.15; 1971 (57) 499; 1985 Act No. 166, Section 15; 2006 Act No. 238, Section 3.B, eff March 15, 2006.

**SECTION 12-51-170.** Contract with county for collection of taxes due municipality.

A county and municipality may contract for the collection of municipal taxes by the county. When by contract a tax due a municipality is to be collected by the county, the provisions of this chapter are exercisable by the county official charged with the collection of the delinquent taxes. He may employ, appoint, or designate others to perform or carry out the provisions of the chapter.

HISTORY: 1962 Code Section 65-2815.16; 1971 (57) 499; 1985 Act No. 166, Section 16.