

2016 -- H 7391

=====  
LC004069  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————  
A N A C T

RELATING TO TAXATION - TAX SALES

Introduced By: Representatives Craven, Marshall, Gallison, and Shekarchi

Date Introduced: January 28, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-9-1, 44-9-5, 44-9-12, 44-9-13, 44-9-16, 44-9-21, 44-9-24, 44-9-  
2 28, 44-9-29, 44-9-30, 44-9-31 and 44-9-43 of the General Laws in Chapter 44-9 entitled "Tax  
3 Sales" are hereby amended to read as follows:

4 **44-9-1. Tax liens on real estate.** -- (a) Taxes assessed against any person in any city or  
5 town for either personal property or real estate shall constitute a lien on the real estate. The lien  
6 shall arise and attach as of the date of assessment of the taxes, as defined in § 44-5-1.

7 (b) The tax lien and any other municipal lien against the real estate shall terminate at the  
8 expiration of three (3) years ~~hereafter~~ after it first arises if the estate has in the meantime been  
9 alienated and the instrument alienating the estate has been recorded and no action for the  
10 enforcement of the lien has commenced; otherwise, it shall continue until a recorded alienation of  
11 the estate. The lien shall be superior to any other lien, encumbrance, or interest in the real estate  
12 whether by way of mortgage, attachment, or otherwise, except easements and restrictions. A final  
13 decree foreclosing all rights of redemption under this title shall constitute an alienation within the  
14 meaning of this section. The tax sale itself shall not constitute an alienation.

15 **44-9-5. Agreements between cities or towns and fire districts, water districts, sewer**  
16 **districts, road districts, lighting districts, and lien priorities.** -- (a) Cities and towns and fire  
17 districts, water districts, sewer districts, road districts and lighting districts are authorized to make  
18 agreements with respect to the parcel of property upon which they respectively own tax liens in  
19 respect to the disposition of the liens, of the parcel of property subject to the liens, and of the

1 proceeds of a tax sale of the property.

2 [\(b\) If no agreement is in place, the chronological order in which the tax or lien sale was](#)  
3 [conducted shall determine the priority of the lien. The lien with priority shall be entitled to](#)  
4 [redeem subsequent liens. If redemption is not exercised, a subsequent lien may be used to](#)  
5 [foreclose a prior lien, whereas a prior lien cannot foreclose a subsequent one.](#)

6 **44-9-12. Collector's deed -- Rights conveyed to purchaser -- Recording. --** (a) The  
7 collector shall execute and deliver to the purchaser a deed of the land stating the cause of sale; the  
8 price for which the land was sold the places where the notices were posted; the name of the  
9 newspaper in which the advertisement of the sale was published; the names and addresses of all  
10 parties who were sent notice in accordance with the provisions of § 44-9-10 and 44-9-11; the  
11 residence of the grantee; and if notice of the sale was given to the Rhode Island Housing and  
12 Mortgage Finance Corporation and or to the department of elderly affairs under the provisions of  
13 § 44-9-10. The deed shall convey the land to the purchaser, subject to the right of redemption.  
14 The conveyed title shall, until redemption or until the right of redemption is foreclosed, be held as  
15 security for the repayment of the purchase price with all intervening costs, terms imposed for  
16 redemption, and charges, with interest, and the premises conveyed, both before and after either  
17 redemption or foreclosure, shall also be subject to, and have the benefit of, all easements and  
18 restrictions lawfully existing in, upon, or over the land or appurtenant to the land. The deed is not  
19 valid [as against any intervening interests \(i.e., it does not relate back to the date of the collector's](#)  
20 [sale\)](#) unless recorded within sixty (60) days after the sale. If the deed is recorded, it is prima facie  
21 evidence of all facts essential to the validity of the title conveyed by the deed. It shall be the duty  
22 of the collector to record the deed within sixty (60) days of the sale and to forward said deed  
23 promptly to the tax sale purchaser. The applicable recording fee shall be paid by the redeeming  
24 party. Except as provided, no sale shall give to the purchaser any right to either the possession, or  
25 the rents, or profits of the land until the expiration of one year after the date of the sale, nor shall  
26 any sale obviate or transfer any responsibility of an owner of property to comply with any statute  
27 of this state or ordinance of any municipality governing the use, occupancy, or maintenance or  
28 conveyance of property until the right of redemption is foreclosed.

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

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

5 (c) This tax title purchaser shall not be liable for any enforcement or penalties arising  
6 from violations of environmental or minimum-housing standards prior to the expiration of one  
7 year from the date of the tax sale, except for violations that are the result of intentional acts by the  
8 tax sale purchaser or his or her agents.

9 (d) Upon the expiration of one year after the date of the sale, the tax title holder shall be  
10 jointly and severally liable with the owner for all responsibility and liability for the property and  
11 shall be responsible to comply with any statute of this state or ordinance of any municipality  
12 governing the use, occupancy, or maintenance or conveyance of the property even prior to the  
13 right of redemption being foreclosed. Nothing in this section shall be construed to confer any  
14 liability upon a city or town that receives tax title as a result of any bids being made for the land  
15 offered for sale at an amount equal to the tax and charges.

16 (e) In the event that the tax lien is acquired by the Rhode Island Housing and Mortgage  
17 Finance Corporation, and said corporation has paid the taxes due, title shall remain with the  
18 owner of the property, subject to the right of the corporation to take the property in its own name,  
19 pursuant to applicable statutes and any regulations duly adopted by the corporation. Upon such  
20 notice by the corporation, the collector shall execute and deliver a deed to the corporation as  
21 herein provided.

22 **44-9-13. Entry by collector not required -- Recording of tax sale list.** -- (a) No entry  
23 upon the land by the collector shall be deemed necessary, but the collector in all cases of sales of  
24 real estate shall deliver to the clerk's or recorder's office a list of those properties sold at tax sale  
25 which the clerk or recorder shall record or post in the land evidence records for their city or town  
26 within five (5) business days after the sale of real estate. The recorded or posted list shall include  
27 the assessed owner's name, the address of the property, and the assessor's plat and lot, and the  
28 recorded or posted list shall be conclusive evidence of the facts stated in the list.

29 ~~(b) No properties shall be sold at tax sale to any bidder who is delinquent in the paying~~  
30 ~~of taxes or is an officer, more than ten percent (10%) shareholder or owner of a partnership or~~  
31 ~~corporation or limited liability company that is delinquent in the paying of taxes on any property~~  
32 ~~located within the city or town in which the tax sale is held, unless the bidder has agreed to a~~  
33 ~~written payment plan approved by the collector and is current on any and all payments required~~  
34 ~~by the plan. The collector may require a bidder or an authorized officer or partner of the bidder to~~

1 ~~execute an affidavit that the bidder is qualified under this provision.~~

2 **44-9-16. Conveyance of several unimproved parcels by single deed -- Apportionment**  
3 **of costs.** – (a) If any unimproved and unoccupied parcels of land are sold for nonpayment of taxes

4 assessed against the same person, the collector may convey in one deed to the same purchaser, or  
5 convey to the city or town any number of lots so advertised and sold, and the deed shall state the  
6 amount of the taxes and costs due for each lot. The cost of the sale shall be apportioned equally  
7 among all the lots sold, and the cost of the deed shall be apportioned equally among all the lots  
8 conveyed by the deed.

9 (b) Should any municipality sell a parcel of land that is subject to its merger ordinance,  
10 the merger of such parcel shall be broken should the parcel proceed to foreclosure by the tax sale  
11 purchaser.

12 **44-9-21. Redemption from purchaser other than city or town. --** Any person may

13 redeem by paying or tendering to a purchaser, other than the city or town, his or her legal  
14 representatives, or assigns, or to the person to whom an assignment of a tax title has been made  
15 by the city or town, at any time prior to the filing of the petition for foreclosure, in the case of a  
16 purchaser the original sum and any intervening taxes which have been paid to the municipality  
17 plus interest thereon at the rate of one percent (1%) per month and costs paid by him or her, plus  
18 a penalty as provided in § 44-9-19, or in the case of an assignee of a tax title from a city or town,  
19 the amount stated in the instrument of assignment, plus the above-mentioned penalty. He or she  
20 may also redeem the land by paying or tendering to the treasurer the sum which he or she would  
21 be required to pay to the purchaser or to the assignee of a tax title, in which case the city or town  
22 treasurer shall be constituted the agent of the purchaser or assignee until the expiration of one  
23 year from the date of sale and not thereafter. The right of redemption may be exercised only by  
24 those entitled to notice of the sale pursuant to §§ 44-9-10 and 44-9-11.

25 **44-9-24. Title absolute after foreclosure of redemption -- Jurisdiction of**  
26 **proceedings.** -- The title conveyed by a tax collector's deed shall be absolute after foreclosure of

27 the right of redemption by decree of the superior court as provided in this chapter.  
28 Notwithstanding the rules of civil procedure or the provisions of chapter 21 of title 9, no decree  
29 shall be vacated except in a separate action instituted within ~~one year~~ six (6) months following  
30 entry of the decree and in no event for any reason, later than ~~one year~~ six (6) months following  
31 the entry of decree. Furthermore, the action to vacate shall only be instituted for inadequacy of  
32 notice of the petition amounting to a denial of due process or for the invalidity of the tax sale  
33 because the taxes for which the property was sold had been paid or were not due and owing  
34 because the property was exempt from the payment of such taxes. The superior court shall have

1 exclusive jurisdiction of the foreclosure of all rights of redemption from titles conveyed by a tax  
2 collector's deed, and the foreclosure proceedings shall follow the course of equity in a proceeding  
3 provided for in §§ 44-9-25 -- 44-9-33.

4 **44-9-28. Order as to parties in default.** -- After the fixed return day, to be at least  
5 twenty (20) days after the time of the actual issuance of notice, the court ~~shall~~, if satisfied that the  
6 notice has been properly given, on motion of the petitioner shall enter an order defaulting all  
7 persons failing to ~~appear~~ file a timely answer, and decreeing that the petition as to them be taken  
8 as confessed (Form 8).

9 **44-9-29. Redemption by party to foreclosure proceedings.** -- Any person claiming an  
10 interest, on or before the return day or within that further time as may on motion be allowed by  
11 the court, providing said motion is made prior to the fixed return day, shall, if he or she desires to  
12 redeem, file an answer setting forth his or her right in the land, and an offer to redeem upon the  
13 terms as may be fixed by the court. ~~The~~ Where an answer has been timely filed, the court shall  
14 hear the parties, and may in its discretion make a finding allowing the party to redeem, within a  
15 time fixed by the court, upon payment to the petitioner of an amount sufficient to cover the  
16 original sum, costs, penalties, and all subsequent taxes, costs, and interest to which the petitioner  
17 may be entitled, together with the costs of the proceeding and counsel fee as the court deems  
18 reasonable. The court may impose other terms as justice and the circumstances warrant.

19 **44-9-30. Decree barring redemption.** -- If a default is entered under § 44-9-28, or if  
20 redemption is not made within the time and upon the terms fixed by the court under § 44-9-29, or  
21 if at the time fixed for the hearing the person claiming the right to redeem does not appear to urge  
22 his or her claim after having filed a timely answer, or if upon hearing the court determines that  
23 the facts shown do not entitle the person to redeem, a decree shall be entered which shall forever  
24 bar all rights of redemption.

25 **44-9-31. Contest of validity of tax title.** -- If a person claiming an interest desires to  
26 raise any question concerning the validity of a tax title, the person shall do so by answer filed in  
27 the proceeding on or before the return day, or within that further time as may on motion be  
28 allowed by the court providing said motion is made prior to the fixed return day, or else be  
29 forever barred from contesting or raising the question in any other proceeding. He or she shall  
30 also file specifications setting forth the matters upon which he or she relies to defeat the title; and  
31 unless the specifications are filed, all questions of the validity or invalidity of the title, whether in  
32 the form of the deed or proceedings relating to the sale, shall be deemed to have been waived.  
33 Upon the filing of the specifications, the court shall hear the parties and shall enter a decree in  
34 conformity with the law on the facts found.

1           **44-9-43. Refund of purchase price when title based on collector's sale, treasurer's**  
2 **assignment, or sale without foreclosure adjudged invalid.** -- If, as the result of a petition, or  
3 prior to the filing thereof, the ~~petitioner's~~ title based on a collector's sale, treasurer's assignment,  
4 or sale without foreclosure is determined to be invalid ~~by the superior court~~ because of errors or  
5 irregularities in the tax proceedings upon which it was based, ~~the clerk, upon request, shall issue a~~  
6 ~~certificate to that effect. The~~ the treasurer of the city or town where the land affected by the title is  
7 situated, upon receipt of a deed from the ~~petitioner~~ tax lien holder conveying all of the interest  
8 which he or she may have under it, together with the certificate, shall refund to the holder the  
9 amount paid, therefore plus statutory interest at the rate of one percent (1%) per month from the  
10 date of payment until the date of refund, notwithstanding the provisions of § 45-15-5. The taxing  
11 authority may recover any interest paid to a tax sale purchaser under this section from the  
12 delinquent assessed owner of the property as if the tax sale of the property had not been held.

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

15           **44-9-25.3. Expedited foreclosure of the rights of redemption on account of vacancy. -**

16           -(a) Notwithstanding the provisions of §§ 44-9-25 and 44-9-25.1 following a sale of property for  
17 taxes or fees, whomever then holds the title thereby acquired may bring a petition to the superior  
18 court for the foreclosure of all rights of redemption after the passage of sixty (60) days from the  
19 date of the sale upon a finding by the superior court that the structure(s) thereon are vacant and  
20 either vandalized or non-code compliant condition. A certificate from the local building official  
21 attesting to the vacant and either vandalized or non-code compliant condition of such structure(s)  
22 shall be prima facie evidence of such condition, but additional evidence may be presented to the  
23 court to affirm the conditions alleged in the petition.

24           (b) In the event that a petition to foreclose the right of redemption is filed under the  
25 provisions of this section, notice of the filing of said petition shall be given to the taxing authority  
26 that conducted the sale by certified mail, return receipt requested, thereby ending the period  
27 during which the taxpayer may redeem through the taxing authority. Proof of such notice shall be  
28 filed with the court.

29           (c) Since the purpose of this section is to put vacant, vandalized, or substandard tax-  
30 reverted property to productive use for housing or business use and to stabilize neighborhoods by  
31 arresting blight, and to preserve the value of property in the area surrounding such vacant,  
32 vandalized, or substandard tax-reverted property, a petitioner who has utilized this expedited  
33 foreclosure process shall commence, or cause to be commenced, substantial rehabilitation of the  
34 structure(s) on such parcel within six (6) months following the entry of the final foreclosure

1 [decree or be immediately subject to the non-utilization penalty as set forth in chapter 5.1 of title](#)  
2 [44.](#)

3 SECTION 3. This act shall take effect upon passage.

=====  
LC004069  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TAXATION - TAX SALES

\*\*\*

1           This act would expedite the foreclosure procedure on vacant property, and would amend  
2 laws on tax sales in order to, among other things, establish priorities of tax liens, clarify the effect  
3 of late recordings and simplify procedures in the event of a void sale.

4           This act would take effect upon passage.

=====  
LC004069  
=====