

2017 -- H 5449 SUBSTITUTE A

LC000659/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO TAXATION - TAX SALES

Introduced By: Representatives Craven, and McEntee

Date Introduced: February 09, 2017

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

4 **44-9-1. Tax liens on real estate.**

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

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

16 **44-9-5. Agreements between cities or towns and fire districts, water districts, sewer**
17 **districts, road districts, lighting districts, and lien priorities.**

18 (a) Cities and towns and fire districts, water districts, sewer districts, road districts and
19 lighting districts are authorized to make agreements with respect to the parcel of property upon

1 which they respectively own tax liens in respect to the disposition of the liens, of the parcel of
2 property subject to the liens, and of the proceeds of a tax sale of the property.

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

7 **44-9-12. Collector's deed -- Rights conveyed to purchaser -- Recording.**

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

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

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

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

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

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

24 **44-9-13. Entry by collector not required -- Recording of tax sale list.**

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

32 (b) ~~No properties shall be sold at tax sale to any bidder who is delinquent in the paying of~~
33 ~~taxes or is an officer, more than ten percent (10%) shareholder or owner of a partnership or~~
34 ~~corporation or limited liability company that is delinquent in the paying of taxes on any property~~

1 ~~located within the city or town in which the tax sale is held, unless the bidder has agreed to a~~
2 ~~written payment plan approved by the collector and is current on any and all payments required~~
3 ~~by the plan. The collector may require a bidder or an authorized officer or partner of the bidder to~~
4 ~~execute an affidavit that the bidder is qualified under this provision.~~

5 **44-9-21. Redemption from purchaser other than city or town.**

6 Any person may redeem by paying or tendering to a purchaser, other than the city or
7 town, his or her legal representatives, or assigns, or to the person to whom an assignment of a tax
8 title has been made by the city or town, at any time prior to the ~~filing of the petition for~~
9 ~~foreclosure~~ expiration of one year from the date of sale, in the case of a purchaser the original
10 sum and any intervening taxes which have been paid to the municipality plus interest thereon at
11 the rate of one percent (1%) per month and costs paid by him or her, plus a penalty as provided in
12 § 44-9-19, or in the case of an assignee of a tax title from a city or town, the amount stated in the
13 instrument of assignment, plus the above-mentioned penalty. He or she may also redeem the land
14 by paying or tendering to the treasurer the sum which he or she would be required to pay to the
15 purchaser or to the assignee of a tax title, in which case the city or town treasurer shall be
16 constituted the agent of the purchaser or assignee until the expiration of one year from the date of
17 sale and not thereafter. The right of redemption may be exercised only by those entitled to notice
18 of the sale pursuant to §§ 44-9-10 and 44-9-11.

19 **44-9-24. Title absolute after foreclosure of redemption -- Jurisdiction of**
20 **proceedings.**

21 The title conveyed by a tax collector's deed shall be absolute after foreclosure of the right
22 of redemption by decree of the superior court as provided in this chapter. Notwithstanding the
23 rules of civil procedure or the provisions of chapter 21 of title 9, no decree shall be vacated
24 except in a separate action instituted within ~~one year~~ six (6) months following entry of the decree
25 and in no event for any reason, later than ~~one year~~ six (6) months following the entry of decree.
26 Furthermore, the action to vacate shall only be instituted for inadequacy of notice of the petition
27 amounting to a denial of due process or for the invalidity of the tax sale because the taxes for
28 which the property was sold had been paid or were not due and owing because the property was
29 exempt from the payment of such taxes. The superior court shall have exclusive jurisdiction of
30 the foreclosure of all rights of redemption from titles conveyed by a tax collector's deed, and the
31 foreclosure proceedings shall follow the course of equity in a proceeding provided for in §§ 44-9-
32 25 -- 44-9-33.

33 **44-9-28. Order as to parties in default.**

34 After the fixed return day, to be at least twenty (20) days after the time of the actual

1 issuance of notice, the court ~~shall~~, if satisfied that the notice has been properly given, on motion
2 of the petitioner shall enter an order defaulting all persons failing to ~~appear~~ file a timely answer,
3 and decreeing that the petition as to them be taken as confessed (Form 8).

4 **44-9-29. Redemption by party to foreclosure proceedings.**

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

15 **44-9-30. Decree barring redemption.**

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

21 **44-9-31. Contest of validity of tax title.**

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

31 **44-9-43. Refund of purchase price when title based on collector's sale, treasurer's**
32 **assignment, or sale without foreclosure adjudged invalid.**

33 If, as the result of a petition, or prior to the filing thereof, the ~~petitioner's~~ title based on a
34 collector's sale, treasurer's assignment, or sale without foreclosure is determined to be invalid ~~by~~

1 ~~the superior court~~ because of errors or irregularities in the tax proceedings upon which it was
2 based, ~~the clerk, upon request, shall issue a certificate to that effect. The~~ the treasurer of the city
3 or town where the land affected by the title is situated, upon receipt of a deed from the ~~petitioner~~
4 tax lien holder conveying all of the interest which he or she may have under it, together with the
5 certificate, shall refund to the holder the amount paid, therefore plus statutory interest at the rate
6 of one percent (1%) per month from the date of payment until the date of refund, notwithstanding
7 the provisions of § 45-15-5. The taxing authority may recover any interest paid to a tax sale
8 purchaser under this section from the delinquent assessed owner of the property as if the tax sale
9 of the property had not been held.

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

12 **44-9-25.3. Expedited foreclosure of the rights of redemption on account of vacancy.**

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

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

26 (c) Since the purpose of this section is to put vacant, vandalized, or substandard tax-
27 reverted property to productive use for housing or business use and to stabilize neighborhoods by
28 arresting blight, and to preserve the value of property in the area surrounding such vacant,
29 vandalized, or substandard tax-reverted property, a petitioner who has utilized this expedited
30 foreclosure process shall commence, or cause to be commenced, substantial rehabilitation of the
31 structure(s) on such parcel within six (6) months following the entry of the final foreclosure
32 decree or be immediately subject to the non-utilization penalty as set forth in chapter 5.1 of title
33 44.

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

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

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

5 This act would take effect upon passage.

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