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HOUSE BILL NO. 1216

Offered January 24, 2000

A BILL to amend and reenact § 58.1-3967 of the Code of Virginia, and to amend the Code of Virginia by adding in Article 3 of Chapter 32 of Title 58.1 a section numbered 58.1-3228 and by adding a section numbered 58.1-3965.1, relating to delinquent real property taxes, process; release of delinquent tax lien.

Patrons—Cantor, Baskerville and Melvin

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3967 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Article 3 of Chapter 32 of Title 58.1 a section numbered 58.1-3228 and by adding a section numbered 58.1-3965.1 as follows:

§ 58.1-3967. How proceedings instituted; parties; procedure generally; title acquired; disposition of surplus proceeds of sale.

Proceedings under this article for the appointment of a special commissioner under § 58.1-3970.1 or the sale of real estate on which county, city, or town taxes are delinquent shall be by bill in equity, filed in the circuit court of the county or city in which such real estate is located, to subject the real estate to the lien for such delinquent taxes.

Any party with an interest in such real estate, including a lienor or person with a claim of title, shall file his claim within ninety days after notice of such proceedings. Failure to timely file shall bar any such claims.

Any party who is not otherwise served shall be served by publication pursuant to § 8.01-316. Any person served by publication may petition to have the case reheard, but, notwithstanding § 8.01-322, only for good cause shown, and only within ninety days of entry of the ~~final decree~~ *confirmation of sale*.

All necessary parties shall be made parties defendant. A guardian ad litem shall be appointed for persons under a disability as defined in § 8.01-2, and for all persons proceeded against by an order of publication as parties unknown. The beneficiary or beneficiaries under any deed of trust, security interest or mortgage shall not be deemed necessary parties, provided any trustee under the deed of trust, any mortgagee under the mortgage, and any lien creditor are given notice as prescribed in § 58.1-3965, except that the beneficiary or beneficiaries, or the trustee or trustees, under any deed of trust, security interest or mortgage securing a financial institution, or any lien creditor that is a financial institution, shall be necessary parties defendant. The title conveyed to the purchaser at the judicial sale shall be held to bar any disabilities of parties defendant, and shall be free of all claims of any creditor, person, or entity, including those claims of beneficiaries under any deed of trust or mortgage, provided that notice was given and the creditor, person, or entity was made a party defendant.

Such proceedings shall be held in accordance with the requirements, statutory or arising at common law, relative to effecting the sale of real estate by a creditor's bill in equity to subject real estate to the lien of a judgment creditor, provided that publication, if necessary, shall be as provided by § 8.01-321.

In proceedings under this article, the character of the title acquired by the purchaser of such real estate at such sale shall be governed by the principles and rules applicable to the titles of purchases at judicial sales of real estate generally.

The former owner, his heirs or assigns of any real estate sold under this article shall be entitled to the surplus received from such sale in excess of the taxes, penalties, interest, reasonable attorneys' fees, costs and any liens chargeable thereon. If no claim for payment of the indebtedness secured by any lien chargeable thereon is made by an unknown beneficiary of such lien, or if no claim for such surplus is made by such former owner, his heirs or assigns, within two years after the date of confirmation of such sale, then such amount secured by the lien of the unknown beneficiary, surplus, or both, as applicable, shall be paid by the clerk of the court in which such suit was instituted to the county or city in which such real estate is located. Upon request of the former owner, his heirs or assigns, or unknown beneficiary of any real estate sold under this article, and after a showing of a prior entitlement thereto, the governing body of any county or city which has received such surplus funds may, in its discretion, grant relief, by ordinance, to such former owner, heir, or assign, or unknown beneficiary and pay over such amount as the governing body may deem appropriate to such former owner, heir, assign, or unknown beneficiary.

§ 58.1-3228. *Release of delinquent tax lien to facilitate a conveyance of real property.*

INTRODUCED

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60 *The local governing body of any county, city, or town may adopt an ordinance authorizing the*
61 *locality to release all liens for delinquent real estate taxes, or any portion thereof, including penalty and*
62 *accumulated interest, in order to facilitate the conveyance of the property. Such liens may only be*
63 *released under the following conditions:*

- 64 1. *The purchaser is unrelated by blood or marriage to the owner;*
65 2. *The purchaser has no business association with the owner;*
66 3. *The purchaser is a nonprofit housing provider, local government, or the adjoining property owner;*
67 4. *The purchaser owes no delinquent real estate taxes for any real property; and*
68 5. *The property, including land and improvements, is valued at less than \$50,000.*
69 *All such liens shall remain the personal obligation of the owner of the property at the time the liens*
70 *were imposed.*

71 § 58.1-3965.1. *Additional authority to sell land for delinquent taxes.*

72 *In addition to the authority provided by subsection A of § 58.1-3965, a city may also, by ordinance,*
73 *sell any real estate when any taxes on such real estate are delinquent on December 31 following the*
74 *first anniversary of the date on which such taxes have become due provided proper notice is given in*
75 *accordance with § 58.1-3965 (A).*