

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 884

An Act to amend and reenact §§ 58.1-3965 and 58.1-3967 of the Code of Virginia, relating to sale of tax-delinquent real estate; when sold; notice; procedure generally.

[H 314]

Approved April 20, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3965 and 58.1-3967 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3965. When land may be sold for delinquent taxes; notice of sale; owner's right of redemption.

When any taxes on any real estate in a county, city or town are delinquent on December 31 following the third anniversary of the date on which such taxes have become due, such real estate may be sold for the purpose of collecting all delinquent taxes on such property. The officer charged with the duty of collecting taxes for the locality wherein the real property lies shall, at least thirty days prior to instituting any action pursuant to this section, send a notice to the last known address of the property owner; (and to the property address if the property address is different from the owner's address and if the real estate is listed with the post office by a numbered and named street address;) *and to the last known address of any trustee under any deed of trust, mortgagee under any mortgage and any other lien creditor, if such trustee, mortgagee or lien creditor is not otherwise made a party defendant under § 58.1-3967,* advising ~~the~~ such property owner , trustee, mortgagee or other lien creditor of the delinquency and the officer's intention to take action. Such officer shall also cause to be published at least once a list of real estate which will be offered for sale under the provisions of this article in a newspaper of general circulation in the locality, at least thirty ~~but not more than sixty~~ days prior to the date on which proceedings under the provisions of this article are to be commenced. The pro rata cost of such publication shall become a part of the tax and together with all other costs, including reasonable attorneys' fees set by the court *and the costs of any title examination conducted in order to comply with the notice requirements imposed by this section,* shall be collected if payment is made by the owner in redemption of the real property described therein whether or not court proceedings have been initiated. A notice substantially in the following form shall be sufficient:

Notice

Judicial Sale of Real Property

On (date) proceedings will be commenced under the authority of § 58.1-3965 et seq. of the Code of Virginia to sell the following parcels for payment of delinquent taxes:

(description of properties)

The owner of any property listed may redeem it at any time before the date of the sale by paying all accumulated taxes, penalties, interest and costs thereon, including the pro rata cost of publication hereunder.

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

Proceedings under this article for 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 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 ~~one year~~ *ninety days* of entry of the final decree.

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 ~~the any trustee or trustees~~ *under the deed of trust, or any mortgagee or mortgagees under the mortgage, are made parties 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 to be free of all claims of beneficiaries under any deed of trust or mortgage.

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, costs and any liens chargeable thereon. 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 surplus 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.