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HOUSE BILL NO. 1204

Offered January 25, 1994

A BILL to amend and reenact § 58.1-3967 of the Code of Virginia, relating to delinquent tax sale; notice to interested persons.

Patrons—Clement, Almand, DeBoer and Scott; Senators: Calhoun and Waddell

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-3967 of the Code of Virginia is amended and reenacted 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 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 one year 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 trustee or trustees under the deed of trust, or mortgagee or mortgagees under the mortgage, are made parties. 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.

INTRODUCED

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