

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 58.1-3967 of the Code of Virginia, relating to the distribution of*
3 *proceeds from the sale of real property for delinquent taxes.*

[H 1977]

Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 58.1-3967 of the Code of Virginia is amended and reenacted as follows:**

8 § 58.1-3967. How proceedings instituted; parties; procedure generally; title acquired; disposition of
9 surplus proceeds of sale.

10 Proceedings under this article for the sale of real estate on which county, city, or town taxes are
11 delinquent shall be by bill in equity, filed in the circuit court of the county or city in which such real
12 estate is located, to subject the real estate to the lien for such delinquent taxes.

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

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

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

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

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

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

ENROLLED

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