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HOUSE BILL NO. 1909

House Amendments in [] — February 6, 2017

A *BILL to amend and reenact § 58.1-3975 of the Code of Virginia, relating to real property tax; nonjudicial sale of tax delinquent property.*

Patron Prior to Engrossment—Delegate Yost

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-3975 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-3975. Nonjudicial sale of tax delinquent real properties of minimal size and value.**

A. Notwithstanding any other provision of this title, the treasurer or other officer responsible for collecting taxes may sell, at public auction, any unimproved parcel of real property that is assessed at less than \$10,000 \$5,000, provided that the taxes on such parcel are delinquent on December 31 following the third anniversary of the date on which such taxes have become due.

B. *The treasurer or other officer responsible for collecting taxes may in addition sell, at public auction, any parcel of real property that is assessed at no less than \$5,000 but less than \$20,000, provided that the taxes on such parcel are delinquent on December 31 following the third anniversary of the date on which such taxes have become due, [it is not subject to a recorded mortgage or deed of trust lien,] and either such parcel (i):*

1. *Is unimproved and measures less than 4,000 square feet (.0918 acres acre); or (ii):*

2. *Is unimproved and is determined to be unsuitable for building due to the size, shape, zoning or soils, floodway, or other environmental designations of the parcel made by the locality's zoning administrator or other official designated by the locality to administer its zoning ordinance and carry out the duties set forth in subdivision A 4 of § 15.2-2286;*

3. *Has a structure on it that has been condemned by the local building official pursuant to applicable law or ordinance;*

4. *Has been declared by the locality a nuisance as that term is defined in § 15.2-900;*

5. *Contains a derelict building as that term is defined in § 15.2-907.1; or*

6. *Has been declared by the locality to be blighted as that term is defined in § 36-3.*

For purposes of determining the area of any parcel, the area or acreage found in the locality's land book shall be determinative. ~~[The governing body of any county, city, or town may, by ordinance, increase the maximum assessed value as provided in this subsection no less than \$5,000 but less than \$50,000.]~~

~~Prior~~ C. *At least 30 days prior to conducting such a sale under this section, the treasurer or other officer responsible for collecting taxes shall send:*

1. *Send notice by certified or registered mail to the record owner or owners of such property and anyone appearing to have an interest in the property at their last known address as contained in the records of the treasurer or other officer responsible for collecting taxes; and shall post*

2. *Post notice of such sale at the property location, if such property has frontage on any public or private street, and at the circuit courthouse of the locality at least 30 days prior to such sale.*

D. The treasurer or other officer responsible for collecting taxes shall also cause a notice of sale to be published in the legal classified section of a newspaper of general circulation *in the locality in which the property is located* at least seven days but no more than 21 days prior to the sale; *however, if the annual taxes assessed on the property are less than \$500, such notice may be placed, in lieu of publication, on the treasurer's or local government's website beginning at least 21 days prior to sale and through the date of sale.* The pro rata costs of *posting notice*, publication, and mailing shall become a part of the tax and shall be collected if payment is made ~~by the owner~~ in redemption of such real property.

E. The treasurer or other officer responsible for collecting taxes may advertise and sell multiple parcels at the same time and place pursuant to one notice of sale.

F. The treasurer or other officer responsible for collecting taxes may enter into an agreement with the owner of such parcel for payment over time; ~~not to exceed 12 months.~~

G. The owner of any property ~~listed, or other interested party,~~ may redeem it at any time prior to the date of the sale by paying all accumulated taxes, penalties, interest, and costs thereon, including ~~the pro rata costs of publication and mailing reasonable attorney fees.~~ Partial payment of delinquent taxes, penalties, interest, or costs shall be insufficient to redeem the property, and shall not operate to suspend, invalidate, or nullify any sale brought pursuant to this section.

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59 H. At the time of sale, the treasurer or other officer responsible for collecting taxes shall sell to the
60 highest bidder at public auction each parcel that has not been redeemed by the owner. Such sale shall be
61 free and clear of the *locality's* tax lien, but shall not affect easements *or other rights of record* recorded
62 prior to the date of sale *or liens recorded prior to the date of sale unless the treasurer has given the*
63 *lienholder written notice of the sale at least 30 days prior to the sale, at the lienholder's address of*
64 *record and through his registered agent, if any.* The treasurer or other officer responsible for collecting
65 taxes shall tender a ~~treasurer's~~ *special warranty deed pursuant to this section* to effectuate the
66 conveyance of the parcel to the highest bidder.

67 I. If the sale proceeds are insufficient to pay the ~~taxes~~ *amounts owed* in full, the ~~remaining~~
68 ~~delinquent tax amount~~ shall ~~remain the personal liability of the former owner~~ *treasurer or other officer*
69 *responsible for collecting taxes may remove the unpaid taxes from the books and mark the same as*
70 *satisfied.* The sale proceeds shall be applied first to the costs of sale, then to the taxes, penalty, ~~and~~
71 *interest, and fees* due on the parcel, and thereafter to any other taxes or other charges owed by the
72 former owner to the jurisdiction.

73 J. Any excess proceeds shall remain the property of the former owner, *subject to claims of creditors,*
74 *and shall be kept by the treasurer or other officer responsible for collecting taxes* in an interest-bearing
75 escrow account. *If any petition for excess proceeds is made to the treasurer or other officer responsible*
76 *for collecting taxes under this section, the treasurer or officer holding the funds shall forward the funds*
77 *to the locality's circuit court clerk to be impleaded along with a copy of the claim for excess proceeds.*
78 *A copy of such transmission shall be forwarded to the claimant. The burden of scheduling a hearing*
79 *with the circuit court on the claim shall be that of the claimant and shall be made within two years of*
80 *the date of the sale of the property that generated the excess funds. In the event that funds remain with*
81 *the court two years after the date of the sale, the locality may petition to have the funds distributed to*
82 *the locality's general fund.* If no claim for payment of excess proceeds is made ~~by the former owner~~
83 within two years after the date of sale, the treasurer *or other responsible officer* shall deposit the excess
84 proceeds in the jurisdiction's general fund.

85 K. If the sale does not produce a successful bidder, the treasurer *or other responsible officer* shall
86 add the costs of sale incurred by the jurisdiction to the delinquent real estate account.