

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 116

An Act to amend and reenact § 58.1-3965 of the Code of Virginia, relating to sale of land for delinquent taxes.

[H 2165]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

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

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

A. When any taxes on any real estate in a locality are delinquent on December 31 following the second anniversary of the date on which such taxes have become due, or, in the case of real property upon which is situated (i) any structure that has been condemned by the local building official pursuant to applicable law or ordinance; (ii) any nuisance as that term is defined in § 15.2-900; (iii) any derelict building as that term is defined in § 15.2-907.1; or (iv) any property that has been declared to be blighted as that term is defined in § 36-49.1:1, the first 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.

However, in a qualifying locality, as defined in § 58.1-3221.6, whenever (a) taxes on any real estate in the locality are delinquent upon the expiration of six months following the date on which such taxes became due and (b) the locality has incurred abatement costs which remain unpaid upon the expiration of six months following the date on which the abatement costs were first incurred, real estate meeting the conditions described in clause (i), (ii), (iii), or (iv) may be sold for the purpose of collecting all delinquent taxes and abatement costs on such property. For the purposes of this section, "abatement costs" means costs incurred by a locality that result from the conditions described in clause (i), (ii), (iii), or (iv).

Upon a finding by the court, on real estate with an assessed value of \$100,000 or less in any locality, that (a) any taxes on such real estate are delinquent on December 31 following the first anniversary of the date on which such taxes have become due or (b) there is a lien on such real estate pursuant to § 15.2-900, 15.2-906, 15.2-907, 15.2-907.1, 15.2-908.1, or 36-49.1:1, which lien remains unpaid on December 31 following the first anniversary of the date on which such lien was recorded, the property shall be deemed subject to sale by public auction pursuant to proper notice under this subsection.

The officer charged with the duty of collecting taxes for the locality wherein the real property lies shall, at least 30 days prior to instituting any judicial proceeding pursuant to this section, send a notice to (1) the last known address of the property owner as such owner and address appear in the records of the treasurer, (2) 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 (3) 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 such property owner, trustee, mortgagee or other lien creditor of the delinquency and the officer's intention to take action. Such notice shall advise the taxpayer that the taxpayer may request the treasurer to enter into a payment agreement to permit the payment of the delinquent taxes, interest, and penalties over a period not to exceed 36 60 months in accordance with the provisions of subsection C. 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 30 days prior to the date on which judicial 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)

B. The owner of any property listed may redeem it at any time before the date of the sale by paying all accumulated taxes, penalties, reasonable attorneys' fees, interest and costs thereon, including the pro rata cost of publication hereunder. Partial payment of delinquent taxes, penalties, reasonable attorneys' fees, interest or costs shall not be sufficient to redeem the property, and shall not operate to suspend, invalidate or make moot any action for judicial sale brought pursuant to this article.

C. Notwithstanding the provisions of subsection B and of § 58.1-3954, the treasurer or other officer responsible for collecting taxes may suspend any action for sale of the property commenced pursuant to this article (i) upon entering into an agreement with the owner of the real property for the payment of all delinquent amounts in installments over a period ~~which~~ *that* is reasonable under the circumstances, but ~~that~~ *in* no event shall exceed ~~36~~ 60 months, or (ii) *upon written notice by an individual, not a party to the action, asserting ownership rights in the property that is the subject of the action arising by virtue of testate or intestate succession, to the treasurer or other officer responsible for collecting taxes. The treasurer or other officer responsible for collecting taxes shall promptly advise the court of such claim and seek leave to add the individual asserting the claim as a party in the action. If the court determines that the individual asserting the claim possesses an ownership interest in the property that is the subject of the action, such individual may, within 30 days of the court's finding, enter into an agreement with the treasurer or other official responsible for collecting taxes for the payment of all delinquent amounts in installments over a period that is reasonable under the circumstances, but that in no event shall exceed 60 months.* Any ~~such~~ agreement under this subsection shall provide for the payment of current tax obligations as they come due, which payments shall be credited to current tax obligations notwithstanding the provisions of § 58.1-3913 and shall be secured by the lien of the locality pursuant to § 58.1-3340.

D. During the pendency of any installment agreement permitted under subsection C, any proceeding for a sale previously commenced shall not abate, but shall be continued on the docket of the court in which such action is pending. It shall be the duty of the treasurer or other officer responsible for collecting taxes to promptly notify the clerk of such court when obligations arising under such an installment agreement have been fully satisfied. Upon the receipt of such notice, the clerk shall cause the action to be stricken from the docket.

E. In the event the owner of the property or other responsible person defaults upon obligations arising under an installment agreement permitted by subsection C, or during the term of any installment agreement, defaults on any current obligation as it becomes due, such agreement shall be voidable by the treasurer or other officer responsible for collecting taxes upon 15 days' written notice to the signatories of such agreement irrespective of the amount remaining due. Any action for the sale previously commenced pursuant to this article may proceed without any requirement that the notice or advertisement required by subsection A, which had previously been made with respect to such property, be repeated. No owner of property which has been the subject of a defaulted installment agreement shall be eligible to enter into a second installment agreement with respect to the same property within three years of such default.

F. Any corporate, partnership or limited liability officer, as those terms are defined in § 58.1-1813, who willfully fails to pay any tax being enforced by this section, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax not paid, to be assessed and collected in the same manner as such taxes are assessed and collected.

G. During the pendency of the action, the circuit court in which the action is pending may, on its own motion or on the motion of any party, refer the parties to a dispute resolution proceeding pursuant to the provisions of Chapter 20.2 (§ 8.01-576.4 et seq.) of Title 8.01.

H. In any case in which real estate subject to delinquent taxes is situated in two or more jurisdictions, a suit to sell the entirety of the real estate pursuant to this article may be brought in a single jurisdiction provided that (i) taxes are delinquent in all jurisdictions for periods not less than the minimum applicable periods set forth in subsection A and (ii) the treasurer of each jurisdiction within which the property is situated consents to the suit.

The suit shall identify the taxes, penalties, interest, and other charges due in each jurisdiction. The publications and notices required pursuant to this section shall identify each of the jurisdictions in which the property is situated. Upon sale of the property, the order confirming the sale shall provide for the payment of taxes, penalties, interest, and other charges to each jurisdiction, and copies of the order confirming the sale and the deed conveying the property to the purchaser shall be recorded among the land records of the clerk's office of the circuit court for each jurisdiction within which the property that is the subject of the suit is situated. *No final order confirming sale shall be entered sooner than 90 days following the provision of notice to parties in accordance with subsection A or, if later, 90 days following the receipt of notice by the treasurer or other official responsible for collecting taxes from an individual, not previously made a party to the action, in accordance with clause (ii) of subsection C.*