

No. 618, A.]

[Published August 24, 1945.]

CHAPTER 567.

AN ACT to harmonize the provisions of chapter 107, laws of 1945, chapter 100, laws of 1945, chapter 66, laws of 1945, and chapter 166 (No. 40, A.), laws of 1945 and chapter 64, laws of 1945, relating to tax certificates, redemption from tax sales, notice of application for tax deeds and foreclosure of tax certificates, resale of lands acquired by tax deed or conveyance in lieu of tax deed and distribution of the proceeds of such sale, and to make clear the legislative intent.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 74.46 (1), as amended by chapter 100, laws of 1945, is amended by striking from each of the forms of tax certificates provided therein the following language: "4 years and 6 months for the 1945 tax certificates, 4 years for the 1946 tax certificates, 3 years and 6 months for the 1947 tax certificates, and thereafter 3 years" and by inserting, in lieu thereof, the following bracketed language: [Insert "4 years and 6 months" in tax certificates issued in 1945. Insert "4 years" in tax certificates issued in 1946. Insert "3 years and 6 months" in tax certificates issued in 1947. And insert "3 years" in tax certificates issued after 1947.]

SECTION 2. 75.01 (1), as amended by chapter 100, laws of 1945, is repealed; and 75.01 (1), as created by chapter 107, laws of 1945, is amended to read:

75.01 (1) Any person may, prior to the recording of a tax deed based on a tax sale certificate issued on the sale of a parcel of land or of any interest therein for nonpayment of taxes, redeem the land described in such tax sale certificate or any part thereof or interest therein, whether the tax sale certificate to be redeemed wholly or in part is a lien against all the land or against an undivided interest therein. Such redemption shall be made by paying to the county treasurer of the county where such land was sold, or the city treasurer in the case of any land sold for taxes by the city treasurer of any city in this state, for the use of the purchaser, his heirs or assigns, the amount of the taxes for which such land or interest therein was sold, or such portion thereof as the part or interest redeemed shall amount to, in either

case with interest on the amount of said taxes at eight-tenths of one per cent per month or fraction thereof from January 1 after the tax levy year and all other charges authorized by law to be imposed on such tax certificate subsequent to such sale. When so redeemed, prior to the recording of a tax deed, such tax deed shall be void. When an application is made to the county treasurer, or any city treasurer as hereinabove provided, to redeem from any tax sale any divided portion of any part or portion of any lot or parcel of land which was sold for taxes, before making a receipt for the redemption applied for, said treasurer shall give notice of such proposed redemption to any person other than the applicant having a recorded ownership, mortgage, or land contract interest in such land, and to any purchaser of a tax certificate describing such land as shown by said treasurer's records, or may be affected by such application and afford him a hearing. Such notice shall be given in the manner provided in section 75.12 for the giving of notice of application for tax deed, and the costs of giving such notice shall be paid by the person making such application. The time for such hearing shall be fixed at not less than 10 days after the service of such notice has been completed. The county treasurer or such city treasurer shall thereafter determine the true proportion of taxes chargeable to the part or portion sought to be redeemed, and the amount so found shall be the amount required for the redemption thereof. The provisions of this chapter relating to redemption, conveyance, rights of action, limitation and other proceedings shall apply to all swamp and overflowed lands which have been or may be contracted for sale by any county board. The word "recording" as used in this subsection means the presentation of the tax deed to the register of deeds for record and his acceptance thereof.

SECTION 3. 75.02 is repealed.

SECTION 4. 75.10, as amended by chapter 100, laws of 1945, is amended to read:

75.10 Whenever, by mistake or otherwise, such treasurer neglects or fails to include in his published list any such tract or tracts of land or to publish such list in accordance with the requirements of law, the same may be published at any time within 2 years after the expiration of * * * 5 years as to tax certificates which antedate 1945, 4 years and 6 months for the 1945 tax certificates, 4 years for the 1946 tax certificates, 3 years and 6

months for the 1947 tax certificates, and thereafter 3 years; such publication shall be made in the same manner and for the same time as prescribed in the preceding sections, and such treasurer shall specify in his notice accompanying such published list when the time for making redemption of such lands from such sale will expire, which time shall not be less than 6 nor more than 10 months from the expiration of the full 2 weeks required for the aforesaid publication; and all deeds made upon such tracts of land after the expiration of * * * *5 years as to tax certificates which antedate 1945*, 4 years and 6 months for the 1945 tax certificates, 4 years for the 1946 tax certificates, 3 years and 6 months for the 1947 tax certificates, and thereafter 3 years, shall after the expiration of such extended period of redemption, be as valid and effectual as if such publication had been made at the time required in such section.

SECTION 5. 75.12 (2), as amended by chapter 107, laws of 1945, is amended to read:

75.12 (2) Such notice shall state the name of the owner and holder of the tax sale certificate, and the date thereof, the description of the lands involved, the amount for which the lands were sold and that such amount will bear interest as provided by law, and shall give notice that after the expiration of 3 months from the date of service of such notice a tax deed will be applied for. Every notice served upon an occupant shall contain a statement of the language of section 234.18. * * * *A notice of application for a tax deed shall not be * * * served earlier than 88 days prior to the earliest date on which the holder of a tax certificate is by its terms entitled to a deed.* The owner and holder of such tax sale certificate may include in said notice all the certificates he holds upon the same tract of land which are eligible for application for tax deed.

SECTION 6. 75.19, as amended by chapter 100, laws of 1945, is amended to read:

75.19 The holder of any tax certificate may, at his option, in lieu of taking a tax deed, at any time after *5 years as to tax certificates which antedate 1945*, 4 years and 6 months for the 1945 tax certificates, 4 years for the 1946 tax certificates, 3 years and 6 months for the 1947 tax certificates, and thereafter 3 years from the date of such certificate, and before he would be debarred from demanding a tax deed thereon, foreclose the same by action as in a case of a mortgage upon real estate. *The holder of any*

*tax certificate may in any case involving the right of redemption or interest of any minor, idiot or insane person, after a tax deed has been issued as provided in chapter 75, foreclose the right of redemption or interest of such minor, idiot or insane person. In such action such minor, idiot or insane person must appear by guardian ad litem, and his general guardian, if he has one, shall be joined as a party defendant. All the laws and rules of practice relating to the foreclosure of mortgages, as to the persons necessary and proper to be made parties, as to pleading and evidence, the judgment of foreclosure and sale thereunder, the right of the plaintiff to be subrogated to the benefits of all liens upon the premises by him necessarily satisfied in order to save the lien of his certificate, the right of the defendants or any of them, to redeem the premises at any time before sale, and as to costs and disbursements, including the necessary expenses for an abstract of title, shall, so far as they are applicable, prevail in such actions; provided, that when costs are allowed to the plaintiff, such costs, exclusive of disbursements, shall be discretionary with the court, but shall not exceed the amount of the face of the certificate or certificates embraced in such action, and such costs when allowed, shall be an additional lien upon the property described in such certificates, provided further, that the defendant may in all cases within the time limited by law for answering the complaint, execute and deliver to the plaintiff or his attorney a quitclaim deed of the lands described in the complaint, conveying all the right, title and interest of such defendant at the time of the commencement of the suit; or may, within such time, either after having delivered such deed or without such delivery, answer disclaiming any title to the lands in question at the time of the commencement of the suit, in either of which cases the plaintiff shall not recover costs personally against any such defendant who quitclaims as aforesaid or who shall establish such disclaimer upon the trial of such action. The plaintiff in such action, may include in one action, all the certificates he holds upon the same tract of land; and the sale in such actions shall be conducted, certificates thereon made and filed, the report made and confirmed and a deed thereon executed and delivered, in like manner and with like effect as in case of actions for foreclosure of mortgages * * *.*

SECTION 7. 75.35 (2) (repealed and recreated by chapter 166, laws of 1945) (e) of the statutes is created to read:

75.35 (2) (e) Any municipality acting either by its governing body or by delegated authority as provided in this section may sell and convey tax deeded lands to the former owner or owners thereof and such conveyance shall not operate to revive any tax certificate lien or any other lien whatsoever which was cut off and rendered void by the tax deed, foreclosure of tax certificate, deed in lieu of tax deed, or other means by which the municipality acquired title to such land, nor shall it revive the lien of any tax sale certificate or tax dated subsequently to the date on which such municipality acquired its title. The provisions of this paragraph shall operate retroactively upon any such sale or conveyance at any time heretofore made by any municipality. The enactment into statute law of the provisions of this paragraph shall not be deemed an expression of legislative intent that the prior common law of this state was otherwise than as herein provided.

SECTION 8. 75.36 (8) of the statutes (as repealed and recreated by chapter 64, laws of 1945) is amended to read:

75.36 (8) The net proceeds of the gross sale price of the land, if any, remaining after the deductions outlined in paragraphs (a), (b), (c) and (d) have been taken, shall then be prorated between the remaining nonoutlawed municipally owned tax certificates outstanding, *including the tax certificate on which the tax deed was taken*, and paid to the owners of such tax certificates. Such proration shall be in the ratio that the net balance of the proceeds of the sale, after making the deductions authorized in subsection (7), bears to the redemption value of such outstanding nonoutlawed municipally owned taxes on the date the tax deed was taken, provided that in no case shall the payment to the local municipality exceed such redemption value of its nonoutlawed outstanding taxes.

Approved August 16, 1945.