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Short Title: Tax Lien Advertisement and Collection.

(Public)

Sponsors:

Referred to:

February 22, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE PROCEDURES FOR NOTIFYING OWNERS AND
ADVERTISING TAX LIENS ON REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-369 reads as rewritten:

"§ 105-369. Advertisement of tax liens on real property for failure to pay taxes.

(a) Report of unpaid Taxes that are Liens on Real Property. ~~On the first Monday in February in each year, each county tax collector and on the second Monday in February in each year, each municipal tax collector shall~~ In February of each year, the tax collector must report to the governing body the total amount of unpaid taxes for the current fiscal year that are liens on real property, and the governing body shall thereupon property. A county tax collector's report is due the first Monday in February, and a municipal tax collector's report is due the second Monday in February. Upon receipt of the report, the governing body must order the tax collector to advertise such the tax liens. For purposes of this section, district taxes collected by county tax collectors shall be

1 regarded as county taxes and district taxes collected by municipal tax collectors shall be
2 regarded as municipal taxes.

3 (b) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1013.

4 (b1) Notice to Owner. – After the governing body orders the tax collector to
5 advertise the tax liens, the tax collector must send a notice to the listing owner and to the
6 record owner of each affected parcel of property, as determined as of December 31 of the
7 fiscal year for which the taxes are due. The notice must be sent to each owner's last
8 known address by first-class mail at least 30 days before the date the advertisement is to
9 be published. The notice must state the principal amount of unpaid taxes that are a lien
10 on the parcel to be advertised and inform the listing owner that his or her name will
11 appear in a newspaper advertisement of delinquent taxes if the taxes are not paid before
12 the publication date. Failure to mail the notice required by this section to the correct
13 listing owner or record owner does not affect the validity of the tax lien or of any
14 foreclosure action.

15 (c) Time and Contents of Advertisement. – A tax collector's failure to comply with
16 this subsection does not affect the validity of the taxes or tax liens. The county tax
17 collector shall advertise county tax liens by posting a notice of the liens at the county
18 courthouse and by publishing each lien at least one time in one or more newspapers
19 having general circulation in the taxing unit. The municipal tax collector shall advertise
20 municipal tax liens by posting a notice of the liens at the city or town hall and by
21 publishing each lien at least one time in one or more newspapers having general
22 circulation in the taxing unit. Advertisements of tax liens shall be made during the period
23 March 1 through June 30. The costs of newspaper advertising shall be paid by the taxing
24 unit. ~~(If the taxes of two or more taxing units are collected by the same tax collector,~~
25 ~~the tax liens of each unit shall be advertised separately unless, under the provisions of a~~
26 ~~special act or contractual agreement between the taxing units, joint advertisement is~~
27 ~~permitted.)~~ permitted.

28 The posted notice and newspaper advertisement shall set forth the following
29 information:

30 (1) ~~The~~ In the case of property that the listing owner has not transferred
31 after January 1 preceding the fiscal year for which the tax liens are
32 advertised, the name of each person to whom is listed real property on
33 which the taxing unit has a lien for unpaid taxes, in alphabetical order.

34 (1a) In the case of property that the listing owner has transferred after
35 January 1 preceding the fiscal year for which the tax liens are
36 advertised, the name of the record owner as of December 31 of each
37 parcel on which the taxing unit has a lien for unpaid taxes, in
38 alphabetical order, followed by a notation that the property was
39 transferred to the record owner and a notation of the name of the listing
40 owner.

41 (1b) ~~together with a~~ After the information required by subdivision (1) or (1a)
42 of this subsection for each parcel, a brief description of each parcel of

1 land to which ~~such~~ a lien has attached and a statement of the principal
2 amount of the taxes constituting a lien against the parcel.

3 (2) A statement that the amounts advertised will be increased by interest
4 and costs and that the omission of interest and costs from the amounts
5 advertised will not constitute waiver of the taxing unit's claim for those
6 items.

7 (3) In the event the list of tax liens has been divided for purposes of
8 advertisement in more than one newspaper, a statement of the names of
9 all newspapers in which advertisements will appear and the dates on
10 which they will be published.

11 (4) A statement that the taxing unit may foreclose the tax liens and sell the
12 real property subject to the liens in satisfaction of its claim for taxes.

13 ~~Failure to comply with this subsection does not affect the validity of the taxes or tax~~
14 ~~liens.~~

15 (d) Costs. – Each parcel of real property advertised pursuant to this section shall be
16 assessed an advertising fee to cover the actual cost of the advertisement. Actual
17 advertising costs per parcel shall be determined by the tax collector on any reasonable
18 basis. Advertising costs assessed pursuant to this ~~subdivision (d) shall be deemed to be~~
19 subsection are taxes.

20 (e) Payments during Advertising Period. – At any time during the advertisement
21 period, any parcel may be withdrawn from the list by payment of the taxes plus interest
22 that has accrued to the time of payment and a proportionate part of the advertising fee to
23 be determined by the tax collector. Thereafter, the tax collector shall delete that parcel
24 from any subsequent advertisement, ~~but if he fails to do so he shall not be liable for his~~ the
25 tax collector is not liable for failure to make the deletion.

26 (f) Listing and Advertising in Wrong Name. – No tax lien ~~shall be~~ is void because
27 the real property to which the lien attached was listed or advertised in the name of a
28 person other than the person in whose name the property should have been listed for
29 taxation if the property was in other respects correctly described on the abstract or in the
30 advertisement.

31 (g) Wrongful Advertisement. – Any tax collector or deputy tax collector who ~~shall~~
32 ~~willfully advertise~~ willfully advertises any tax lien knowing that the property is not subject
33 to taxation or that the taxes advertised have been paid ~~shall be~~ is guilty of a Class 3
34 misdemeanor, and shall be required to pay the injured party all damages sustained in
35 consequence."

36 Section 2. G.S. 105-375(b) reads as rewritten:

37 "(b) Docketing Certificate of Taxes as Judgment. – In lieu of following the
38 procedure set forth in G.S. 105-374, the governing body of any taxing unit may direct the
39 tax collector to ~~file, no earlier than six months following the advertisement of tax liens, with the~~
40 clerk of superior court file with the clerk of superior court, no earlier than 30 days after the
41 tax liens were advertised, a certificate showing the following: the name of the taxpayer
42 listing real property on which the taxes are a lien, together with the amount of taxes,
43 penalties, interest, and costs that are a lien thereon; the year or years for which the taxes

1 are due; and a description of the property sufficient to permit its identification by parol
2 testimony. The fees for docketing and indexing the certificate shall be payable to the
3 clerk of superior court at the time the taxes are collected or the property is sold."

4 Section 3. G.S. 105-375(e) reads as rewritten:

5 "(e) Special Assessments. – Street, sidewalk, and other special assessments may be
6 included in any judgment for taxes taken under this ~~section; or such section, or the special~~
7 assessments may be included in a separate judgment docketed under this ~~section, which is~~
8 ~~hereby declared to be made available~~ section. The tax collector may use such a judgment as
9 a method of foreclosing the lien of special assessments. When used to foreclose the lien
10 of special assessments, the procedure may be instituted at any time after the assessment
11 or installment falls due and remains unpaid; the ~~six months'~~ waiting period required by
12 subsection (b), ~~above, shall~~ (b) of this section does not apply to the foreclosure of special
13 assessments."

14 Section 4. This act becomes effective January 1, 2001.